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VOLUME XXX

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VOLUME IV

POPE'S DIGEST

1815

VOL. II

COLLECTIONS OF THE ILLINOIS STATE HISTORICAL LIBRARY
VOLUME XXX

LAW SERIES, VOLUME IV

POPE'S DIGEST
1815
VOL. II

EDITED BY
FRANCIS S. PHILBRICK
PROFESSOR OF LAW, UNIVERSITY OF PENNSYLVANIA



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P R E F A C E

This is the second and concluding volume of *Pope's Digest*, the first volume of which was published in 1938 as volume 28 of the *Illinois Historical Collections*.

In the preface to the first volume of *Pope's Digest* I acknowledged my great indebtedness to Professor Theodore C. Pease and the members of his staff. In the preparation of this volume I have received the same generous and efficient assistance that I enjoyed while at work on its predecessor, and it is a pleasure to repeat here, with emphasis, my earlier expression of thanks.

Incidentally to the preparation of these volumes of *Pope's Digest*, and the volume on the Statutes of Illinois Territory (1809-1818) which will follow them, the editor has examined almost all of the extant court records, down to 1830, in thirteen counties of the State — Bond, Crawford, Edwards, Gallatin, Johnson, Madison, Monroe, Pope, Randolph, St. Clair, Union, Washington, and White. The footnotes to the Introduction in volume I of this work reveal my indebtedness to the records of all these counties. Particular acknowledgments for kindnesses exceeding official courtesies were made in the preface to volume 21 of these *Collections* to the clerks of Randolph and St. Clair, to which counties long and repeated visits were made. In other counties the records were relatively scanty and my visits short. Special acknowledgments may perhaps properly be made to Mr. James S. Gregg, Clerk of the Circuit Court, and Mr. Victor Pearce, County Clerk, of Gallatin County; and to the son of the former, Mr. Harry Gregg. For the courtesies shown me by the custodians of the records in all other counties, however, I wish to offer my cordial and appreciative thanks. It is an interesting fact that the sole docket of a justice of the peace anywhere discovered by me (that of John Marshall, for 1818) was found in Shawneetown in private ownership. The late F. E. Robinson, who then owned the docket, was kind enough to give me permission to examine it.

As in volume I, the general style of the original edition has been followed as nearly as possible. Original pages have been reproduced

line for line, including running heads and page numbers. Typographical errors in the copy have also been included. For numbering the text as a whole, the drop folio has been used.

I have been asked to state that while this volume was in press, Mr. Paul M. Angle succeeded to the editorship of the *Illinois Historical Collections*. Final proofs were corrected, and the index prepared, under Mr. Angle's supervision; all other such work was performed by Dr. Theodore C. Pease and his staff.

FRANCIS S. PHILBRICK

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LAWS
OF THE
ILLINOIS TERRITORY.

VOLUME II

LAWS
OF THE
TERRITORY
OF
ILLINOIS,
REVISED AND DIGESTED,
UNDER THE
AUTHORITY
OF THE
LEGISLATURE,

* * * * *
BY NATHANIEL POPE.
* * * * *

VOLUME II.

K A S K A S K I A :

PRINTED BY
MATTHEW DUNCAN
PRINTER TO THE
Territory.

July, 4th, 1815.

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JUDICIARY.

AN ACT

Regulating and defining the duties of the United States' Judges for the territory of Illinois.

Passed March 3, 1815.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Illinois territory shall be divided into three circuits in the manner and for the purposes hereinafter mentioned.

**Ills tery
divided into
3 circuits**

Sec. 2. And be it further enacted, That the counties of Madison and St. Clair shall compose the first circuit, the counties of Randolph and Johnson shall compose the second circuit, and the counties of Gallatin and Edwards shall compose the third circuit.

How divided

Sec. 3. And be it further enacted, That the judges heretofore appointed, or which may hereafter be appointed for the Illinois territory under the authority of the government of the United States, shall previous to the time prescribed by this act for holding the first court, in the said territory, proceed to allot amongst

**judges shall
annually al-
lot amongst
themselves
for circuit,
which allot-
ment shall
be recorded.**

themselves the circuit in which they shall respectively preside, which allotment shall continue in force for and during the term of one year thereafter, and such allotment shall be annually renewed, and which allotment in writing signed by the said judges or a majority of them, shall be entered of record in the said courts respectively by the clerks thereof at the commencement of the term next after such allotment shall have been made.

Judges shall hold annually two terms in each county, at what times? the style of the courts. shall be circuit court. —

Sec. 4. And be it further enacted, That it shall be the duty of the said judges respectively to hold two terms annually in each county in their respective circuits in conformity with the preceding sections of this act, which shall commence at the times hereinafter mentioned, that is to say, in the county of Madison on the last Mondays in May and September, in the county of St. Clair on the second Mondays in June and October, in the county of Randolph on the third Mondays in June and October, in the county of Johnson on the fourth Mondays in June and October, in the county of Gallatin on the first Mondays in July and November, and in the county of Edwards on the second Mondays in July and November, in each year, and the said courts shall be styled circuit courts for the counties in which such courts shall be held respectively.

The courts shall be held at the court house.

Jurisdiction of Cir. Court

Sec. 5. And be it further enacted, That the said courts shall be holden at the respective court houses of said counties and the said judges respectively shall in their respective circuits, have jurisdiction over all causes matters or things at common law or in *Chancery*, arising in each of said counties, except in cases where the debt or demand shall be under

twenty dollars, in which cases they shall have no jurisdiction.

Sec. 6. And be it further enacted, That the said judges shall be conservators of the peace, and the said circuit courts in term time, or the judges thereof in vacation, shall have power to award injunctions, writs of ne exeat, habeas corpus and all other writs and process that may be necessary to the execution of the power with which they are or may be vested.

Power of the judges in term & vacation.

Sec. 7. And be it further enacted, That the said circuit courts respectively shall have power to hear and determine all treasons, felonies and other crimes, and misdemeanors that may be committed within the respective counties aforesaid, and that may be brought before them respectively, by any rules or regulations prescribed by law.

Cir. courts power to determine upon all crimes

Sec. 8. And be it further enacted, That all suits shall be tried in the counties in which they originate, unless in cases that are or may be specially provided for by law.

Suits to be tried in the counties where they originate.

Sec. 9. And be it further enacted, That if the circuit judge shall not attend on the first day of any court, or if a quorum of the court hereinafter mentioned shall not attend in like manner, such court shall stand adjourned from day to day until a court shall be made, if that shall happen before four o'clock in the afternoon of the third day.

Absence of a judge at a term.

Sec. 10. And be it further enacted, That if either a circuit court, or the court hereinafter mentioned shall not set in any term or shall not continue to set the whole term, or before the

When the court does not sit or does not

end of the term shall not have heard and determined all matters and things depending in court, undetermined shall stand continued until the next succeeding term.

**When
the court
does not sit
after being
opened.**

Sec. 11. And be it further enacted, That if from any cause either of the said courts shall not set on any day in a term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed the court shall proceed to business until the end of the term if the business depending before it be not sooner dispatched.

**Judicial term
6 days.**

Sec. 12 And be it further enacted, That the judicial term of the said circuit courts shall consist of six days in each county, during which time the court shall set unless the business before it shall be sooner determined.

**Clerk shall
be appd. by
court**

Sec. 13. And be it further enacted, That a clerk shall be appointed by the said circuit courts respectively in each county, whose duty it shall be to issue process in all causes originating in his county, to keep and preserve the records of all the proceedings of the court therein, and to do and perform in the county all the duties which may be enjoined on him by law.

**Suits depend-
ing in com.
pleas Dec
31st. 1814
contd. in
cir. court**

Sec. 14. And be it further enacted, That in the cases that were on the thirty first day of December in the year eighteen hundred and fourteen, depending in the courts of Common Pleas in the respective counties, the parties or their attorneys shall be permitted to take all such measures for bringing them to trial that might have been taken if no change had taken place, and the said circuit courts respectively

shall as far as possible proceed to the trial thereof in the same manner that the said courts of Common pleas might legally have done, had no other change than a mere alteration of the terms taken place.

Sec. 15. And be it further enacted, That the said judges appointed as aforesaid or a majority of them shall constitute a court to be styled, the court of Appeals for Illinois territory, and shall hold two sessions annually at Kaskaskia, which shall commence on the first Mondays in March and August in every year, and continue in session until the business before them shall be compleated, which court shall have appellate jurisdiction only, and to which appeals shall be allowed, and from which writs of error according to the principles of the common law, and conformably to the laws and usages of the said territory, may be prosecuted for the reversal of the judgments and *decrees* as well of the said circuit courts, as of any inferior courts which now are or hereafter may be established by the laws of the said territory.

Court of Appeals and its jurisdiction shall hold two terms annually at Kaskaskia

Sec. 16. And be it further enacted, That a clerk shall be appointed by the said court of Appeals, whose duty it shall be to issue process in all cases brought before the said court where process ought to issue, and to keep and preserve the records of all the proceedings of the said court therein, and to do and perform all such duties as may be enjoined on him by law.

Court of appeals to appoint its clerk

Sec. 17. And be it further enacted, That in all cases that were on the said thirty first day of December eighteen hundred and fourteen depending in the General court of said territory

**Suits depend
ing in genl
court on 31st
Dec. 1814
contd in Ct
of appeals**

the parties or their Attornies shall be permitted to take all such measures, for bringing them to a final decision that might have been taken if no change had taken place, and the said court of Appeals shall as far as practicable proceed to the final determination thereof in the same manner that the said General court might legally have done, had no other change than a mere alteration of the terms taken place.

**Appeals and
writs of er-
ror on mat-
ters of law
only allowed**

Sec. 18. And be it further enacted, That appeals may be prayed and writs of error taken out upon matters of law only, in all cases wherein they are now allowed by law, to the said court of appeals and all writs of error shall be issued by the clerk of the said court of appeals, and made returnable to the said court at Kaskaskia, but no question upon appeal or writ of error shall be decided without the concurrence of two judges at least.

**Ter. legisla-
ture may al-
ter the times
of holding
the court,
but not mul-
tiply the
terms.**

Sec. 19. And be it further enacted, That the Legislature of the said territory shall have power to change the times of holding any of the courts required to be holden by this act; *Provided however*, That the said Legislature shall not have authority to increase the number of sessions to be held by the said courts respectively in conformity with the provisions of the preceding sections of this act.

**No ter. judge
shall be asso-
ciated with
the U States
judges**

Sec. 20. And be it further enacted, That no judge or justice appointed under the authority of the government of the said territory, shall be associated with the aforesaid United States' judges when sitting as circuit judges as aforesaid.

This act to commence & be in force from and after the first day of April next.

AN ACT

*Organizing courts of Common Pleas,**Passed Sept. 17, 1807.*

Sec. 1. There shall be a court of record in each county in the Territory, to be styled and called the court of Common Pleas of county, to consist of three Judges, any two of whom shall form a quorum, to be appointed and commissioned by the Governor, the said courts shall and may hear & determine and sentence according to the course of the common law, all crimes and misdemeanors, of whatever nature or kind, committed within their respective counties, the punishment whereof doth not extend to life, limb, imprisonment for more than one year, or forfeiture of goods and chattels, or lands and tenements, and they shall also hold pleas of *Assize Scirefacias, Replevins*, and hear & determine all manner of pleas, suits, actions and causes, real personal and mixed, according to law.

Courts of common pleas authorized in each county — to consist of 3 Judges — by whom to be appointed — their power and duties.

Section 2, 3 and 4 are not in force.

Sec. 5. If the said court shall not be opened at the period aforesaid, it shall

O o

**In case not
opened, shff.
to adjourn.**

be lawful for the sheriff to adjourn the said court from day to day, for two days, & if the said court shall not then be opened, he shall, and is hereby authorized, to adjourn the said court 'till court in course.

Section 6 is not in force.

**Judges to
take recog-
nizances &c.
payable to
the U. S. to
whom to be
certified —
forfeited re-
cognizances,
how and to
what court
to be certi-
fied**

Sec. 7. The said Judges, and every of them, shall have full power and authority, in, and out of court, to take all manner of recognizances, and obligations, which said recognizances and obligations, shall be made to the United States; and all recognizances for the peace, behavior, or for appearance, which shall be taken by any of the said Judges, out of court, shall be certified to the next court of Common Pleas, to be holden after the taking thereof, and every recognizance taken before any of them for suspicions of any manner of felony, or other crime, not triable in the said court, shall be certified before the Judges of the General court, or court of Oyer and Terminer, at their next succeeding court, to be holden next after the taking thereof, without concealment of, or detaining or embezzelling the same; but in case any person or persons shall forfeit his or their recognizance of the peace, behavior, or appearance, for any cause whatsoever, then the recog-

nizance so forfeited, with the record of the default, or cause of forfeiture, shall be sent and certified without delay by the Judges of the said court, into the General court, or court of Oyer and Terminer, as the case may require; that thence process may issue against the said parties according to law, all which forfeitures shall be levied by the proper officers, and go to the Territory.

Sec. 8. All fines and amercements which shall be laid before the Judges of the said court of Common Pleas, shall be taxed, affixed and set, duly and truly, according to the quality of the offence, without partiality or affection; & shall be yearly estreated by the clerks of the said courts respectively into the General court, or court of Oyer and Terminer, to the intent that process may be awarded to the sheriff of every county, as the case may require, for levying such of their fines and amercements as shall be unpaid, to the uses for which they are or shall be appropriated.

Sec. 9. To the end that persons indicted, or outlawed for felonies or other offences, in one county, who remove into, or dwell in another county, may be brought to justice; it is hereby directed that the Judges, or any of them, shall, and may direct their writs

Fines to be truly taxed, and how to be yearly estreated, judges to issue their writs or precepts to arrest persons indicted in one county to another.

Judges to issue their warrants or precepts — arrest persons indicted in one county & fleeing to another.

To issue subpoenas for witnesses to any county in the territory.

or precepts, to all, or any of the Sheriffs, or other officers of said counties (where need shall be) to take such persons indicted or out-lawed; and it shall and may be lawful to and for the said court to issue forth *subpoenas* and other warrants, (under the seal of the court, and signed by the Clerk) into any county or place of this Territory, for summoning or bringing any person or persons to give evidence in, and upon any matter or cause whatsoever, now or hereafter, examinable, or in any ways triable by, or before them, or any of them, under such pains and penalties as *subpoenas* or *warrants* of that kind usually are, or ought by law to be granted or awarded; they shall have further power and authority when, and as often as necessity may require, to issue *dedimuses* for the examination of witnesses, living in, or moving to a different county, under the like rules and regulations as *dedimuses* issuing from the General court.

To issue dedimuses.

Appeals how made.

Sec. 10. If any person or persons shall find him or themselves aggrieved by the judgment of any of the said courts of Common Pleas, it shall and may be lawful to, and for the party or parties so aggrieved, to appeal from the said judgment, under the restrictions and regulations of the law to regulate the

practice of the General court upon appeals and writs of error, or to have his or their writ or writs of error, which shall be granted of course, in manner as other writs are to be granted, and made returnable to the General court.

Sec. 11. All writs issuing out of the said courts, shall run in the name and style of the United States, and bear teste in the name of the Clerk, and be dated when they issue, and shall be sealed with the judicial seal of the said court, & made returnable according to law.

**Writs to run
in name U.
S. how test-
ed and dated**

Sec. 12. The judges of the said respective courts, shall and are hereby empowered to grant under the seal of the said court, *replevins, writs of partition, writs of view*, and all other writs and process upon the said pleas and actions, cognizable in the said courts, as occasion may require.

**What writs
to be issued
by the courts**

Sec. 13. The said courts of Common Pleas shall, and are hereby empowered to issue forth *subpoenas*, under the seal of the said court, and signed by the Clerk into any county or place within this territory, for summoning or bringing any person or persons to give evidence in, or upon the trial of any matter or cause, whatsoever depending before them, or any of them, under such pains

**Power of
the court to
issue subpoe-
nas, &c.**

**Under what
penalties.**

and penalties as by the rules of the common law and course of the practice of the General court are usually appointed.

Testatum writs of execution to be issued and executed.

Sheriffs neglecting to execute and return them subject to what penalties

Sec. 14. Upon any judgment obtained in any of the said courts of Common Pleas, and execution returned by the Sheriff or coroner of the proper count, where such judgment was obtained, that the party was not to be found, or hath no lands and tenements, goods or chattels in that county; and thereupon it is testified that the party skulks or lies hid, or hath lands and tenements, goods and chattels in another, county in this territory, it shall and may be lawful to and for the court that issued out such execution, to grant, and they are hereby required to grant an *alias Execution*, with a *Testatum** directed to the Sheriff or Coroner, of the county or place where such person lies hid, or where his lands or effects are commanding him to execute the same according to the tenor of such writ or writs, and make return thereof to the court of common pleas, where such recovery is had, or judgment given, and if the sheriff or coroner, to whom such writ or writs shall be directed, shall

*See act December 19th, 1814 entitled
"An act concerning Executions."

refuse or neglect to execute and return the same accordingly, he shall be amerced in the county where he ought to return it, and be liable to the action of the party grieved, and the said amercement shall be truly and duly set according to the quality of the offence, and estreated by the Clerks of the respective courts of Common Pleas, into the next succeeding General court, or court of Oyer and Terminer in course, that thence process may issue against the offenders for levying such fines and amercements as shall be unpaid, to the use for which they are or shall be appropriated.

**And how to
be estreated
& recovered**

Sec. 15. The Clerk of the said court shall be appointed and commissioned by the Governor for and during good behavior, who shall be entitled to and authorised to receive such fees as are now allowed, or hereafter may be by law.

**Clerks of the
court appointed
by the
governor
during good
behavior**

AN ACT

*Regulating the Courts of common pleas, and
fixing the times of holding terms in the
several counties.*

Passed December, 19, 1812.

Sec. 1. Be it enacted by the Legis-

**Jurisdiction
of the court
of common
pleas.**

lative Council and House of Representatives, and it is hereby enacted by the authority of the same, That the courts of common pleas in the several counties in this Territory shall hereafter possess and exercise the same jurisdiction and powers in the respective counties that were possessed and exercised by the said courts, by virtue of the laws of the Indiana Territory, on the first day of March, in the year one thousand eight hundred and nine, any laws or parts of laws to the contrary notwithstanding.

The residue of this Law is repealed and superseded by posterior laws changing the Judiciary System.

GENERAL COURT

AN ACT

Regulating the General Court.

Passed Dec. 10, 1813.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of the Illinois Territory, and it

is hereby enacted by the authority of the same, That there shall be holden and kept, at the seat of Government of this territory, a Supreme Court of Record to be called and styled the "General Court," the sittings of which court shall be held at Kaskaskia, in the County of Randolph on the first Mondays in April and September, yearly and every year, and the Judges of the said court, and every of them, shall have power and authority, as often as there may be occasion, to issue forth writs of habeas corpus, certiorari, and writs of error and remedial and other writs and process returnable to the said court, and grantable by said judges, by virtue of their office.

To hold two terms annually at Kaskaskia.

To issue writs of habeas corpus &c.

Sec. 2. Be it further enacted, that the said court shall hear and determine all causes, matters and things cognizable in the said court, and also to hear and determine all, and all manner of pleas, complaints, and causes, which shall be removed or brought there from the respective courts of common pleas, or from any other court to be holden for the respective counties, and to examine and correct all and all manner of errors of the Judges of the inferior courts in their judgments, process, and proceedings in

Its Jurisdiction.

To correct errors of inferior courts.

**To punish
the con-
tempts &c.
of all officers
in the respec-
tive counties.**

the said courts, as well all pleas of the United States, as in all pleas, real, personal and mixed; and thereupon to reverse or affirm the same judgments as the law does or shall direct, and also to examine, correct and punish, the contempts, omissions and neglects, favors, corruptions and defaults, of all or any of the Justices of the Peace, sheriffs, coroners, clerks, and other officers within the respective counties.

**To award
process to
collect fines
&c.**

Sec. 3. Be it further enacted, That the said General court shall have power to award, process, as well for levying such fines, forfeitures and amercements as shall be estreated into the said General court as of the forfeitures and amercements which shall be taxed and set there, and not paid to the uses they are or shall be appropriated, and generally shall minister ample justice to all persons, and amply exercise the jurisdictions and powers herein mentioned concerning all & singular the premises according to law.

**Writs issued
shall run in
the name of
the U. States**

**Bear teste in
the name of
the clerk.**

Sec. 4. Be it further enacted, That all writs issuing from the said court shall run in the name of the United States of America, and bear teste in the name of the clerk of the General court, on the days on which the said writs shall be issued, and shall be sealed with the Ju-

dicial Seal of the said court, and made returnable according to law.

And be sealed with the seal of the court.

Sec. 5. Be it further enacted, That the said court, shall have power from time to time to deliver the jails of all persons who now are or shall hereafter be committed for treasons, murders, or such other crimes, as, by the laws of the Territory, now are, or shall hereafter, be made capital, or felonies, of death as aforesaid, and for that end from time to time to issue forth such necessary precepts and process and force obedience thereto as Justices of Oyer and Terminer, and of jail delivery may or can do within the United States.

To deliver the Jails.

Sec 6 Be it further enacted, That so much of the sixth section of an act entitled "An act regulating the General court passed by the General Assembly of the Indiana territory on the seventeenth day of September, 1807, as authorises and empowers the governor of the territory to issue a commission for holding a special court of Oyer and Terminer, in any county, directed to the Judges of the General court or any one of them," shall be and the same is hereby repealed.

Repeals part of 6th section of Act 1807.

Sec. 7. Be it further enacted, That

**Special term
of the genl.
court to be
held in any
county for
the trial of
Criminals.**

**Sheriff to
summon
Grand jury
& petit jury.**

**Sheriff to
give notice
20 days.**

**The Judge is-
suing the
precepts to
notify the
other Judges,
the Clerk &
Attorney
Genl.**

whenever any person shall be in the custody of the sheriff of any county, charged with any offence exclusively cognizable by the General court, it shall be the duty of such sheriff to give information thereof in writing to any of the Judges of the General court, who shall thereupon issue a precept under his hand and seal to the sheriff of such county, commanding him to summon twenty-three Grand Jurors and thirty six petit jurors to attend at the seat of justice of the said county on a day therein mentioned, which shall not be less than thirty, nor more than sixty days from the date of such precept.

Sec. 8. Be it further enacted, That it shall be the duty of such sheriff on receiving the precept aforesaid to give notice by advertisement set up at the seat of justice of the said county, at least twenty days before the return of such precept, of the time and place of holding a special session of the General court, in pursuance of this act; and the Judge issuing his precept as aforesaid shall personally or in writing notify the other Judges of the said court, the clerk of the said court and the attorney General, of the time and place of holding a General court in pursuance of this act. But the want of such advertisement by the sheriff or of such notice by the Judge

shall not be construed to invalidate the authority of the court, or to render its proceedings erroneous: But in case of such omission, the precept aforesaid shall be considered legal notice of the time and place of holding a General court by virtue of this act: and the sheriff for omitting to advertise in manner aforesaid may be fined by the court in a sum not exceeding five hundred dollars, and not less than one hundred dollars.

The precept to be legal notice.

Sheriff to be fined for failing to give notice how,

Sec. 9. The said court when met in pursuance of this act, shall have authority to adjourn to any day which may be adjudged reasonable and expedient for the fair and impartial trial of any person who may be indicted before the same court.

Court may adjourn to any day

Sec. 10. Be it further enacted, That in case the requisite number of Grand or Petit jurors should not attend, at the time and place mentioned in such precept, or the number of Petit jurors be reduced by challenges below twelve, the court may order the sheriff to complete the panel of the Grand jury or petit jury from the by-standers or award a venire for a Grand or Petit jury as the case may require.

Court may direct Tales men to complete the Jury or award a venire.

Sec. 11. Be it further enacted, That

Jurors failing to attend how punished.

in order to compel the due attendance of jury men in the said General court, and all other courts in this territory, it is hereby enacted and declared that if any person shall be duly summoned to attend any court of judicature to serve on a jury, or any inquest required by law, and shall neglect or refuse to give his attendance on the day and during the time his service is necessary, every such person so offending shall be fined for every such offence in the General court by the said court in any sum, not exceeding eight dollars, and for every such offence in any court of Common Pleas of any county in the territory, by the said court any sum not exceeding five dollars, unless the delinquent shall, at the same or next succeeding term, render to the said courts respectively, a reasonable excuse for such neglect or refusal it shall be the duty of the said General court and courts of Common Pleas, and they are hereby empowered and required on failure of such delinquents to render such reasonable excuse, to issue a writ to the sheriff of the county to levy the said fines on the goods and chattels of every such delinquent, to be paid to the clerk of the General court and clerks of the courts of common pleas. But where any delinquency in the attendance of jurors summoned to attend any special

The courts required to award process to levy the fines.

session of the general court may happen and the delinquent fails to make his excuse at the term to which he may have been summoned it shall and may be lawful for him to make his excuse to the said court at their next stated term, in writing, which shall be sworn to and subscribed before some judge of the court of common pleas or justice of the peace in the territory; and in all cases where the excuse shall be deemed insufficient by the court they are hereby authorised to issue process directed to the sheriff of the county in which the delinquency may have happened commanding him to levy the fine on the goods and chattels of every such delinquent.

How delinquent Jurors may make excuse

Sec. 12. Be it further enacted, That all fines amercements and forfeitures which shall be inflicted by the said General court under any of the laws of this territory shall be paid to the clerk of said court and by him annually on or before the first day of October, paid into the Territorial Treasury for the use of the territory. That all amercements fines, and forfeitures inflicted by the said court at any special session held by the said court in any county shall be paid to the sheriff of the county where the same shall be inflicted, and by the said sheriff accounted for annually and by him paid into the county treasury for the use of

Fines in the genl court to be paid to the Territorial Treasurer

At any special session to be applied to the county levy

**Expences of
a special
session to be
defrayed by
the county
where holden**

the county - - that the expenses of any prosecution or prosecutions before the said court, at any special session as aforesaid, where the defendant or defendants shall be acquitted or discharged, or unable to pay the fees, such fees shall be paid by the county in which such prosecution shall be instituted.

**Sheriff of
Randolph county
to attend the
general court**

Sec. 13. Be it further enacted, That it shall be the duty of the sheriff of Randolph county to attend and execute the process and orders of the general court within his county; and it shall be the duty of each and every sheriff in this territory to attend and execute the orders and process of the said court, at any special session thereof, which shall and may be held in his county. And it shall be the duty of the sheriff of Randolph county at least five days previous to the commencement of each stated term of the general court, to summon thirty six house keepers to attend the said court as Petit Jurors. No grand jury shall be hereafter summoned to attend the general court at their stated term to be holden at Kaskaskia, unless the attorney of the United States for the territory shall convince the said court or some judge thereof in vacation that it is necessary to have a grand jury summoned to present offences that may have been committed against the laws of the

**Sheriffs of the
other coun-
ties to attend
special ses-
sions in their
respective
counties**

**Sheriff of
Randolph county
to summon
petit Jurors
for the general
court**

**No grand ju-
ry to be sum-
moned to the
general court ex-
cept in cer-
tain cases**

United States, which court or judge is hereby authorised to issue a precept directed to the Martial of the territory commanding him to summon twenty three house holders to appear at the said court, as a grand jury. From and after the passage of this act the grand juries sworn before the court of common Pleas in the several counties shall be charged to enquire, as well of all offences cognizable by the General Court which may be committed in their respective counties, as of offences cognizable and triable by the courts of common Pleas. And when any such grand jury shall make a presentment of any offence, or find an indictment only cognizable by the general court, the said courts of common pleas in their respective counties shall have power and hereby are required to issue process to apprehend the offender, and when the offender, shall be in custody, the sheriff of the proper county shall forthwith give notice thereof to one of the judges of the general court.

To be summoned by the martial

Grand juries at the com. pleas to present offences triable by the genl. court.

Court of com. pleas to issue process to apprehend the offenders & the sheriff to give notice to a Judge of the nl. court.

Section 14 not in force.

Section 15 not in force.

Sec. 16. Be it further enacted, that

Q q

Writs of error, appeal & certiorari or matter of law only.

there shall not hereafter be any writ of certiorari appeal, or writ of error or any proceeding in the nature of either to the general court from any court in this territory upon any matter of fact; but in future the general court shall take cognizance of errors in law only by writ of error or appeal neither of which shall issue in any case whatever until after final judgment in the court of common pleas.

Judgment on appeals from Justices of peace final in com. pleas.

Chancery powers granted to genl. court.

Sec. 17. Be it further enacted, That the judges of the general court shall be and they are hereby authorised to exercise the power and authority usually exercised by a court of chancery.

Rules of practice in England to be observed.

Sec. 18. Be it further enacted, That in all suits in chancery in the said general court the rules and methods which regulate the high court of chancery in England, shall as far as the said general court may deem the same applicable, be observed except as hereinafter mentioned.

Section 19, not in force.

Ne exeat & injunction &c.

Sec. 20. Be it further enacted that the said court in term or any Judge in vacation shall be authorised to grant writs of Ne Exeat injunction certiorari

or other process usually granted by a court of equity.

Sec. 21. Be it further enacted that if the complainant in chancery resides out of the Territory, he shall before is suing of process to appear, cause a bond to be executed by at least one sufficient person being a freeholder and resident of the territory to the defendant in the penal sum of two hundred dollars, conditioned to prosecute the suit with effect and to pay costs if the defendant should be entitled thereunto, and to have the same filed with the clerk; in default whereof the said complainant's bill shall be dismissed with costs.

Non residents complainants to file security for costs.

Sec. 22. Be it further enacted, That any complainant in chancery residing within the territory shall at the discretion of the court give security in the manner and form as is required in case of non residents.

Resident complainants may be compelled to give security for costs.

Sec. 23. Be it further enacted, That any subpoena, process of sequestration, writ of execution, or other writ or process in chancery, shall be issued by the clerk at the instance of the party applying for the same.

Clerk to issue writs.

Sec. 24. Be it further enacted, That

**Rules to plead
&c. given in
open court.**

in all cases in chancery, the rules to plead, answer, reply, rejoin, or other proceedings, when necessary, shall be given in open court and be entered in a book to be kept for that purpose for the information of all parties, attorneys, or counsellors, therein concerned.

**No subpoena
to issue until
bill filed.****How served.**

Sec. 25. Be it further enacted, That no subpoena in chancery shall issue until the bill be filed with the clerk, whose duty it shall be to copy the same, and to deliver a copy to the person applying for the subpoena, which copy shall be delivered to the defendant, if within the territory, by the officer or person serving the subpoena, which service and delivery shall be endorsed on the back thereof, and if there be more than one defendant, the said copy shall be delivered to the one first named in the subpoena, if he be resident within this territory, if not, the next one named in the subpoena that is a resident.

**Where per-
sonal service
cannot be
made how to
proceed.****Advertise in
a newspaper.**

Sec. 26. Be it further enacted, That if any defendant in chancery (if but one) or defendants (if more than one) reside out of the territory, or cannot be found to be served with process of subpoena or abscond to avoid being served therewith public notice shall be given to the defendant or defendants, signed by the clerk, in any newspaper printed in this

or any adjoining state or territory as the court shall direct, that unless he, she, or they appear & file his, her, or their answer by a day given him or them by the court, the bill shall be taken pro confesso. And when a bill is amended, a copy of the amendatary bill shall in like manner be delivered to the defendant or defendants.

Sec. 27. Be it further enacted, That in suits in chancery the complainant may take depositions in one month after filing his bill, provided he first obtain a dedimus for that purpose, before any Judge or Justice of the peace, and the defendant may do the like, as soon as he has filed his answer: *Provided*, that reasonable notice be given of the time and place of taking such deposition, which reasonable notice shall in all cases be ten days, and over and above the ten days, one day for every twenty miles, travel from the place of holding court to where the witness or witnesses are to be sworn and examined.

Sec. 28 Be it further enacted, That if the defendant in chancery does not file his answer in the time prescribed by the rules of the court, having also been served with process of subpoena, with a copy of the bill, or notice as required by this act, the complainant shall pro-

**Complainant
make take
depositions
one month
after bill filed.**

**Defendant to
do the like
after answer
filed.**

**Notice of
time & place
be given to
the opposite
party.**

**If deft. does
not answer
how to pro-
ceed**

Court may grant further time to answer

ceed on to hearing, as if the answer had been filed, and the cause at issue: *Provided however*, that the court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

Before whom a y D defendant swear to his answer.

Sec. 29. Be it further enacted, That any defendant in chancery may swear to his answer before any Judge of this court, or any Judge of a court of Common Pleas, or Justice of the peace; & if the defendant resides out of the territory he may swear to his answer before any Justice of the peace of a county, city, or town corporate (the common seal of any court of record of such county, city, or town corporate, being thereto annexed.)

Court may issue process to enforce its decree

Sec. 30. Be it further enacted, That the complainant in chancery having obtained a decree, and the defendant not having complied therewith by the time appointed, i shall be lawful for the said court to issue a writ of fieri facias against the goods and chattels, lands and tenements and hereditaments of the defendant, upon which sufficient property shall be taken and sold to satisfy the said demand with costs; or to issue a capias ad satisfaciendum against the defendant. Upon writs of fieri facias and capias ad satisfaciendum there shall be

the same proceedings as at law; or cause by injunction the possession of effects and estate demanded by the bill, and whereof the possession or sale is decreed to be delivered to the complainant, or otherwise according to such decree, and as the nature of the case may require.

Sec. 31. Be it further enacted, That when a decree in chancery shall be made for a conveyance, release, or acquittance, and the party against whom the decree shall pass, shall not comply therewith by the time appointed, then such decree shall be taken and considered, in all courts of law and equity, to have the same operation and effect and be as available, as if the conveyance release or acquittance had been executed conformably to such order.

A decree for conveyance, release & acquittance have full effect.

Sec. 32. Be it further enacted, That a decree in chancery shall from the time of its being signed, have the force, operation, and effect of a judgment at law from the time of the actual entry of such decree; and a writ of fieri facias issued on any decree in chancery shall bind the goods of the person, against whom it is issued, from the time it was delivered to the sheriff or officer to be executed as at law.

Decree have the same effect as a judgment at law

Fieri Facias Binds personal estate from its delivery to the sheriff.

**Govr. to ap-
point a clerk
to said court**

**Clerk to give
Bond.**

**Injunction
how obtained**

**Party to give
not less than
10 nor more
than 15 days**

Sec. 33. Be it further enacted, That there shall be appointed and commissioned by the governor, a clerk to the said court who shall enter into bond to the governor, with security to be approved by the governor, in the penalty of one thousand dollars, conditioned for the performance of such duties as are, or may hereafter be required of him by law, which bond shall be filed in the office of the secretary of the territory. Which said clerk shall be entitled to the same fees and salary as by law are now, or which may be, hereafter allowed him, and shall perform such duties as are by law required of him.

Sec. 34. Be it further enacted, That no injunction in chancery shall be granted to stay proceedings at law, unless the party praying the injunction, have at least proved that the opposite party (if living in the territory, if not, his agent or attorney of record) had at least ten and not more than fifteen days notice of the time and place of applying for such injunction; from the time of which notice given all proceeding shall be stayed, until the court or Judge's decision shall be made, whether an injunction shall or shall not be granted, but if the complainant shall not make application for such injunction, on the

day specified in such notice, then the plaintiff at law may proceed as if none had been given; nor shall any injunction be granted to stay any judgment at law for a greater sum, than that the complainant shall shew himself equitably not bound to pay, and so much as shall be sufficient to cover the costs, and every injunction when granted shall operate as a release to all errors in the proceedings at law that are prayed to be enjoined; nor shall any injunction be granted, unless the complainant shall have previously executed a bond to the defendant with sufficient security to be approved by the court or Judge granting the injunction in double the sum prayed to be enjoined conditioned for the payment of all monies and costs due or to be due to the plaintiff in the action at law, and also all such costs and damages, as shall be awarded against him or her in case the injunction shall be dissolved. If the injunction shall be dissolved in whole or in part, the complainant shall pay six per cent exclusive of legal interest, besides costs; and the clerk shall issue an execution for the same when he issues an execution upon said judgment; on the dissolution of an injunction judgment shall be given by

**Injunction re
releases er-
rors at law.**

**If injunction
be dissolved
compl. to
pay 6 pr. ct.
damages.**

R R

Judgt. to be given also against the securities.

the court against the sureties as well as the complainant in the injunction bond.

Affidavits to support or dissolve an injunction must be taken on notice.

Sec. 35. Be it further enacted, that whenever affidavits are taken either to support or dissolve an injunction, the party taking the same shall give the adverse party reasonable notice of the time and place of taking the same, and the clerk shall issue to either of the parties subpoenas to procure the attendance of witnesses at the time and place appointed; and such affidavits taken as aforesaid may be read on the final hearing of the cause in which they may be taken under the same restrictions as depositions taken according to law.

And may be read on the final hearing

Injunction in term time how obtained.

Sec. 36 Be it further enacted; that no notice shall be necessary in any case where application is made for an injunction in term time (where the judgment was rendered in the general court, but if the judgment be rendered in any other court, notice shall be required of an application in term time for an injunction unless as is hereinafter provided) nor in vacation where the title or bonds for lands shall come in question, & that no injunction to stay proceedings at law shall be granted after sixty days next succeeding the end of the term, at

No notice where title of land comes in question.

which the judgment sought to be enjoined was rendered.

Sec. 37. Be it further enacted; that writs of Ne Exeat shall not be granted but upon Bill filed, and affidavit to the allegations, which being produced to the court in term time or the judge in vacation he or they may grant or refuse such writ as to him or them shall seem just; and if granted, he or they shall endorse thereon in what penalty bond and security shall be required of the defendant. And that no writ of Ne exeat shall issue until the complainant shall give bond and security in the clerk's office, to be approved by the Judge or court, and in such penalty as he or they shall adjudge necessary, to be endorsed on the bill. And in case any person stayed by such writ of Ne exeat shall think himself or themselves aggrieved, he or they may bring suit on such bond, and if on trial it shall appear that the writ of Ne exeat was prayed without a just cause, the person injured shall recover damages.

**Ne Exeats
how granted**

Sec. 38. Be it further enacted, That if the defendant or defendants in chancery shall go out of the territory, but shall return before a personal appearance be necessary to perform any order or decree of the court, such his or

**A temporary
absence
not a breach
of the bond.**

**Security may
arrest his
principal or
special bail.**

her temporary departure, shall not be considered as a breach of the condition of the bond. And whenever the defendant to a bill in chancery shall give security that he will not depart the territory, the security shall have leave at any time before the bond shall be forfeited, to secure his principal in the same manner that special bail may surrender their principal and obtain the same discharge.

**Gen court
shall have
cognizance
in equity in
all cases am-
ounting to or
exceeding
100 Dolls.**

Sec. 39 Be it further enacted, That the said General Court shall have cognizance of all cases in equity amounting to or exceeding one hundred dollars. But if any bill in chancery shall be brought touching any matter or thing, real or personal, which shall not be of the value of one hundred dollars the same shall be dismissed with costs.

**Suits &c.
continued &
triable in
this court.**

Sec. 40. Be it further enacted, That all suits process and proceedings whatsoever now depending before the General Court at Kaskaskia shall be returned to and proceeded on at the terms of the said General Court directed to be holden under this act, and shall be prosecuted on to final judgement and execution in all things as fully as the same might or could have been done had this act not have been passed.

Sec. 41. Be it further enacted, That all suits, process and proceedings whatsoever, now pending in the General Court at Cahokia shall be proceeded on and the court to be held at Cahokia aforesaid in the same manner as is now provided by law and as if this act had not passed, until the first day of November next; after which time, the papers, books, and proceedings then being at Cahokia in the General Court, shall be removed to Kaskaskia and be proceeded on as above provided for the business pending before the said court at Kaskaskia, all laws and parts of laws coming within the purview of this act, shall be and the same are hereby repealed.

**Suits at
Cahokia
how disposed
of.**

This act to commence and be in force from and after the passage thereof.

S U P R E M E C O U R T.

AN ACT

*Establishing a Supreme Court for Illinois
Territory.*

Be it enacted by the Legislative

Judges appointed by the U. States to hold a supreme court in Edwards county Gallatin conty, Johnson ctty. Randolph St. Clair & Madison.

Council and House of Representatives, and it is hereby enacted by the authority of the same. That the Judges appointed for this Territory under the authority of the government of the United States, shall constitute a Court to be styled the Supreme Court of Illinois Territory, which shall be holden in the manner and at the times and places hereinafter mentioned; that is to say, in the county of Edwards on the second Monday in February and fourth Monday in July. In Gallatin the third Monday in February and first Monday in August. In Johnson, fourth Monday in February and second Monday in August. In Randolph, the first Monday in March and third Monday in August. In St. Clair, third Monday in March and first Monday in September. In Madison the fourth Monday in March and second Monday in September, yearly and in every year.

Jurisdiction.

Sec. 2. Be it enacted by the authority aforesaid, That the said courts shall be holden at the respective court houses of said Counties, and shall in each county have jurisdiction over all persons therein, and in all causes, matters or things at common law, or in Chancery, arising in each of said counties except in cases where the debt or demand shall be under twenty dollars,

in which cases it shall have no jurisdiction, except where the same shall be brought before it by appeal or writ of error.

When the debt dont exceed 20 dolls.

Sec. 3. The said judges shall be conservators of the peace, and the said court or any judge thereof shall have power to award injunctions, writs of *Ne exeat*, *habeas Corpus* and all other writs and processes that may be necessary to the execution of the power with which they are or may be vested.

Judges conservator of the peace &c.

Sec. 4. The said court shall have power to hear and determine all Treasons felonies and other crimes, and misdemeanors that may be committed within the respective counties aforesaid that may be brought before it by any rules or regulations prescribed by law.

Court to determine treason &c.

Sec. 5, The said court shall have jurisdiction in all causes suits and motions against public debtors, sheriffs, clerks, and all collectors of public money of every denomination whatsoever, for and in behalf of the Territory or any county thereof, and in all cases where it may have been the duty of any sheriff, clerk, or collector of public money to have made collections and have settled with the proper authority, and

The court to sustain notices and suits against public debts shffs. &c.

**To compel
the debtor to
administer
oath.**

**Reasonable
notice of the
time & place
to be given.**

he or they shall have failed to have done so or shall hereafter fail so to do, and there shall appear any defect in the bond given by said officer or other proceeding, sufficient to exempt from liability the security or securities of said officer, or to defeat the ordinary proceedings against himself, the court shall have power to compel such person, whether in or out of office, who either has collected public money, or ought to have done so, to exhibit upon oath a full and fair statement of all monies by him collected, and a list of all persons as far as it may be practicable to obtain the same, or whom such person had a right to collect, and who had failed to pay him accordingly, and the said court shall upon hearing the whole case without regard to form, have power to give judgment for such sums of money which such person or persons as aforesaid ought to be liable to pay according to the true spirit of the laws, & the principles of equity; Provided however, that such person or persons as aforesaid shall have reasonable notice of the time and place, when or where a motion to the court against him or them for the purposes aforesaid is intended to be made.

Sec. 6. All the powers at present

vested in the General court and all the common law jurisdiction, whether of a civil or criminal nature now vested in the several courts of Common Pleas, not inconsistent with the principles of this law, shall be and hereby are vested in the Supreme Court hereby established, and the rules and regulations prescribed by law for the exercise of those powers in all cases whenever the same may be applicable, shall govern said court and be pursued by parties litigant therein and in all cases not provided for by law the said court shall have power to adopt rules and regulations necessary for effectuating the powers hereby granted to it.

**Powers of the
genl. court &
com pleas
vested in the
supreme
court.**

**Rules of
practice.**

Sec. 7. All suits shall be tried in the counties in which they originate, unless in cases that are or may be otherwise specially provided for by law and in all cases except those hereinafter mentioned, one of the Judges shall be sufficient to constitute a court.

**Suits to be
tried in the
counties in
which they
originate.**

Sec. 8. In all criminal cases where the charge shall be of such a nature as in case of conviction to subject the offender to capital punishment or burning in the hand or elsewhere two Judges shall be necessary to proceed

**Two Judges
necessary to
try capital
offences and
burning**

S s

**When the
Judges are
divided judgt
rendered for
defendant.**

upon the trial of the issue whether in law or fact, provided however that if only one Judge shall attend the court, and any prisoner shall notwithstanding petition to be brought to trial, one Judge shall constitute a court for such purpose. When two Judges shall attend all questions arising in criminal cases and submitted to the court, in case the court shall be divided shall be considered as adjudged in favor of the criminal and if the court shall be divided in the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged.

**If Judge fail
to attend
what.**

Sec. 9. If no judge shall attend on the first day of any court, such court shall stand adjourned from day to day until a court shall be made if that shall happen before four of the clock in the afternoon of the third day.

**If court does
not sit suits
to be contd.**

Sec. 10. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision all such matters and things depending in court, and undetermined shall stand continued till the next succeeding term.

Sec. 11. If from any cause the court shall not set on any day in a term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed the court shall proceed to business until the end of the term if the business depending before it be not sooner dispatched.

**Suits contd.
if the court
fails to set
after being
opened.**

Sec. 12. The judicial term shall consist of six days in each county during which time the court shall set unless the business before it shall be sooner determined except in Randolph county where it may set twelve days

**6 days judi-
cial term
except in
Randolph 12
days.**

Sec. 13. A clerk shall be appointed by the Governor of the territory in each county whose duty it shall be to issue process in all cases originating in his County to keep and preserve the records of all the proceedings of the court therein and to do and perform in his county all the duties now enjoined on the Clerk of the General Court, and the several Clerks of the courts of common pleas except those which relate exclusively to county business of which the court hereby established has no original jurisdiction.

**Clerks to be
appointed by
the governor**

Their duty

Sec. 14. Whensoever the Governor shall appoint a clerk as aforesaid it shall be his duty if any court of common

**Clerks to
demand the
books & pa-
pers of the
clerks of
com. pleas**

pleas shall have been established in the county to demand of the clerk of said court of common pleas therein all the books & papers in his possession except those which relate to the county business of which the court hereby established has no jurisdiction, and such clerk of the court of common pleas shall thereupon deliver the same under the penalty of one thousand dollars to be recovered by action of debt in behalf of the territory.

Penalty.

**Suits in
com. pleas
tried in Su-
preme court.**

Sec. 15. In the cases now depending in the courts of common pleas in the respective counties, the parties or their attorneys shall be permitted to take all such measures for bringing to trial that might have been taken if no change had taken place, and the court hereby established as far as possible, proceed to the trial thereof in the same manner that the present courts of common pleas might legally have done, had no other change than a mere alteration of the term taken place it being distinctly the intention of this legislature to produce no other change upon the causes now depending in those courts of common pleas than merely to substitute the present for the former courts; If however any causes requiring particular indulgence should present themselves, the court are hereby empowered to grant continuances for remedy thereof.

Sec. 16. Appeals may be prayed &

writs of error taken out upon matters of law only in all cases wherein they are now allowed by law, Appeals shall be taken to the court to be holden in Randolph county and all writs of error shall be issued by the clerk of Randolph county and be made returnable to the court in that county, but no question upon appeal or writ of error shall be decided without the concurrence of two judges, at least, and it being as important that the exposition given by the judges to a law should be made public as that the law itself should be—it is hereby declared to be the duty of each judge in all cases of appeals or writ of error to state the cases and give his reasons at large in writing for his opinion which shall be carefully preserved by the clerk and kept subject to the inspection of all who may desire to read the same.

Sec. 17. Nothing in this law contained shall be construed into a repeal of the existing regulations for speedy trial of persons charged with Capital offences, but the judges of the Supreme court hereby established shall perform the same duties in that respect that were hitherto prescribed to them as judges of the general court.

Sec. 18. The courts of common

Appeals and writs of error to Randolph court.

2 Judges to concur on deciding in appeals & error

Each Judge to give a written opinion on appeals and error.

Speedy trial of capital offences.

**Jurisdiction
taken from
com. pleas.**

pleas for the several counties shall not hereafter possess or exercise any jurisdiction given to the Supreme court of Illinois Territory.

**Duty of sher
iffs.**

Sec. 19. The sheriffs of the respective counties shall summon juries, and return in their respective counties all process to them directed, to the Supreme court in the same manner that they have heretofore been required to do to the courts of common pleas, unless in cases where the law shall specially prescribe otherwise.

**2 professing
attorneys to
be appointed**

Sec. 20. There shall be appointed two attorneys to prosecute in all cases in behalf of the Territory, one of which shall be appointed to a district to be composed of the counties of Madison, St. Clair & Randolph. And the other shall be appointed to a district to be composed of the counties of Johnson, Gallatin and Edwards; and each of said attorneys shall prosecute in all cases according to law, that may arise within his respective district, and each shall be allowed a salary of one hundred dollars per annum to be paid out of the public Treasury.

**Sheriffs &
clerks to re-
move their
offices to the
county seats
of justice.**

Sec. 21. Be it further enacted, That all sheriffs and clerks of courts in the respective counties shall within six

months from the passage hereof remove their respective offices and all the papers and records thereunto belonging to the seat of justice of their respective counties and they shall continue to keep their respective offices and all the books and papers thereunto appertaining at said respective seats of justice in their respective counties, under the penalty of five hundred dollars to be recovered by motion giving the party twenty days previous notice thereof in writing, in any court having jurisdiction of the same, one half to the informer, and the other half to the use of the said county; this act to commence and be in force from and after the first day of January next.

Take effect

APPROVED, December 13th, 1814.

AN ACT

Supplemental to an act entitled "an act to establish a Supreme Court for Illinois Territory."

Passed December 22, 1814.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the

Repealing the style of "general court."

authority of the same; That so much of any law whatever, as gives the style of the "General Court" to the court heretofore required to be held by the Supreme or Superior Judges of this territory who hold their appointments from the President and Senate of the United States, and also all laws or parts of laws inconsistent with the provisions of the act to which this is a supplement shall be and they are hereby repealed.

**Provisions of
this Act &
the act to
which it is a
supplement
takes prefer-
ence to other
laws.**

Sec. 2. That in all cases whatever the provisions of this act and that to which this is a supplement shall have preference to provisions in any former law wherever the same subject is embraced.

**Powers of
the Judges of
com. pleas
& genl court
vested in the
J dges of the
supreme
court**

Sec. 3. That all powers and duties which were previous to the passage of the act to which this is a supplement, vested in and enjoined on the judges of the courts of common pleas and judges of the general court, so far as the same are connected with the jurisdiction or duties of the Supreme court of Illinois Territory, shall be vested in and exercised by the judges of the Supreme court, which shall perform all the duties imposed on the former general court, not inconsistent with the provi-

tions of this act and that to which it is a supplement.

Sec. 4. That all suits and other matters or things now depending in the general court shall be tried and finally disposed of by the supreme court required to be held at Kaskaskia in the same manner as if this law and that to which it is a supplement had not been enacted, And all process and other proceedings which would have been necessary to bring said suits or other matters to a final termination shall and may be pursued as though no change had taken place; *Provided however*, that the style of the court now given in lieu of the former style shall be observed in all proceedings requiring any style to be used.

Suits &c depending in the general court to be tried in the supreme court to be holden at Kaskaskia

Styled "supreme court" to be used

AN ACT

Concerning County Courts.

Passed December 19, 1814.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the

T T

**County
court estab-
lished**

3 Judges

**Its jurisdic-
tion**

authority of the same. That there shall be a court of record in each county in this Territory, to be called and styled the county court, to consist of three Judges, who shall be conservators of the peace, any two of whom shall form a quorum, to be appointed and commissioned by the Governor. And the said court shall have and possess and exercise, all and every of the the powers, privileges and jurisdiction (as near as may be) and perform the same duties, that the courts of Common Pleas of the respective counties might lawfully have performed on the first day of November last, except so far as relates to the trial of causes civil and criminal over which the county court shall have no jurisdiction for the trial thereof.

**3 Terms an-
nually**

**In the coun-
ty of Edwar-
ds
Gallatin**

Johnson

Randolph

Sec. 2. The said courts shall annually hold three terms in their respective counties (*viz*) in the county of Edwards, on the fourth Mondays of the months of January, April and August, yearly and every year. In the county of Gallatin, on the first Mondays of the months of February, May and September, yearly and every year. In the county of Johnson, on the second Mondays of the Months of February, May and September, yearly and every year. In the county of Randolph on the third

Mondays of the Months of February, May and September, yearly and every year. In the county of St. Clair, on the fourth Mondays in the months of February May and September. In the county of Madison on the first Mondays in the Months of March, June and September, yearly and every year. The Judges of said court shall respectively recieve two dollars for every day they shall sit to be paid out of the county levy.

St. Clair

Madison

Judgee to receive 2 dolls. per day.

Sec. 3. Be it further enacted; that when the courts of common pleas were directed to do or perform any duty or act at any particular term thereof, it shall be the duty of the county courts, should their terms not be held at the times prescribed by law, for holding those terms of the common pleas, to perform the same acts or duties at their terms immediately preceding or succeeding those sessions of the courts of common pleas.

Its duty in certain cases

Sec. 4. Be it further enacted, That the clerk of said court shall be appointed in the same manner in all respects as the clerks of the courts of common pleas were appointed; and they shall have the same power in court, and in the vacation thereof, and perform the same duties, that the clerks of com-

Clerks how appointed.

their powers

And fees

mon pleas could or might have done; and the clerk shall have the same fees that are or may be allowed by law.

**Judges to
take recog-
nizances &c.**

Sec. 5. Be it further enacted, That the said Judges shall have power to take all and every species of recognizances and obligations in matters civil and criminal, and they are hereby ordered, on proper affidavit to order bail in civil cases, as the Judges of the courts of common pleas might have done.

AN ACT

Supplemental to an act entitled "An act concerning County Courts,"

Passed December 24th 1814.

Preamble

Whereas it is advisable to remove all doubts that may arise as to the powers vested in the county courts, and the judges and clerks thereof.

**Powers of
the county
courts and
the judges
thereof**

Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same, That the county courts established by the act, to which this is a supplement, and the Judges of said

courts, shall possess and exercise, all the jurisdiction and perform all the duties heretofore vested in or required of the courts of common pleas or the Judges thereof, except such as have been transferred to the supreme court or the Judges thereof.

Sec. 2. That the clerks to be appointed for the said county courts, shall perform all the duties heretofore vested in or required of the clerks of the common pleas so far as the same duties relate to the powers and jurisdiction of said county courts, and all other duties that have not been transferred either expressly or by necessary implication to the clerks of the supreme court: but in neither of the latter cases shall the said clerks of county courts, have any power whatever.

**Duties of the
clerks of the
county court**

AN ACT

Concerning Clerks of Courts.

Passed September, 17 1807.

Sec. 1. It shall be the duty of the General court of this Territory, and the several courts of Common Pleas of the counties at their first session after

**Courts to
take bonds
&c.**

To be lodged in secy's office.

the first day of January next, to receive of their respective clerks, bonds with approved security, in the penalty of one thousand dollars, payable to the governor of the Territory, for the time being, and his successors in office, conditioned for the faithful discharge of the duties of their respective offices, and all clerks hereafter to be appointed to said courts shall previous to their exercising the duties of their office, enter into bond in like manner, which bonds shall by said clerks be lodged in the office of the Secretary of the Territory, within three months thereafter.

Judges' to examine clks books in open court.

assess. fines

report &c.

Clerks failing &c.

Sec. 2. It shall be the duty of the presiding judge of the several courts of Common Pleas in this Territory, and of the first judge of the General court to examine the respective clerk's books in open court, and see what fines are due thereon to the territory or to the county, and make out a fair list thereof, and report those due to the Territory to the auditor thereof, who shall report the same to the legislature at the same time he makes his annual report, and if the said clerk shall fail to pay the said fines to the treasurer of the territory, or the county as the case may be, on or before the first day of March annually, the auditor shall direct the attorney general to obtain judgment by motion

against said clerks in their respective courts, upon giving ten days notice thereof, and immediately collect the same and pay it into the treasury of the territory, or the county as the case may be; and the said judges shall further report to the sheriffs as treasurers of their respective counties the amount of fines due to said counties, on or before the first day of March, and the sheriffs as treasurers, if the said fines are not paid to them, on or before the first day of May by the said clerks then the said sheriffs as treasurers, shall proceed to collect the same in manner and form as is directed in the foregoing part of this section.

Aud. his duty.

J U R O R S.

A L A W

*Concerning Grand Jurors adopted from the
Kentucky Code,*

Passed March 3d, 1810.

Be it enacted by the Governor and

Judges of the Illinois Territory, and it is hereby enacted by the authority of the same.

Sheriff to summon 24 householders to serve on grand jury

16 sufficient to form a jury.

The Sheriff of each county where a superior court of criminal jurisdiction, is appointed to be holden, shall before every meeting of such court, summon twenty-four of the most discreet householders, residing within the limits of the jurisdiction of the said court, to appear at the succeeding court, on the first day thereof and the said twenty-four householders, or any sixteen of them, shall be a grand jury who shall be sworn to enquire of and present all treasons, felonies, murders, and other misdemeanors whatsoever, which shall have been committed or done within the limits of the jurisdiction of the said court: and if a sufficient number of the said householders shall not attend on the first day of the court, the sheriff shall summon from the bystanding householders of the description aforesaid a sufficient number together with those attending to make a jury.

The foregoing is hereby declared to be a law of this territory, and to take effect from the date thereof.

AN ACT.

*Concerning Jurors,
Passed December 25th, 1812.*

Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same, That house keepers shall hereafter be deemed qualified (there being no other just exception to them) to serve on any Jury whatever, any law to the contrary notwithstanding. This act to be and remain in force from and after the passage thereof.

**house keeper
deemed good
jurors**

JUSTICES OF THE PEACE.

AN ACT

For the appointment of Justices of the Peace within the several counties of the Territory, and therein of their duties and Powers.

Passed Sept. 17, 1807.

Sec. 1. There shall be a competent

U v

**Justices of
the peace.**

**To take re-
cognizances,
&c.**

**To whom
payable.**

**To be certi-
fied to court
of common
pleas.**

**or
General
court or
court of Oyer
& terminer.**

**May hear pet
it crimes the
punishment
whereof shall
be by fine
only.**

number of Justices in every county, nominated and commissioned by the Governor, under the seal of the Territory, who shall have power and authority to take all manner of recognizances and obligations, as any Justices of the Peace in any of the U. States may, can or usually do, which said recognizances and obligations shall be made to the United States; and all recognizances for the peace, behavior or for appearance, which shall be taken by any of the said Justices, shall be certified into the Court of Common Pleas, to be holden next after the taking thereof; and any recognizances taken before any of them for suspicions of any manner of felony, or other crime not triable in the said court of Common Pleas, shall be certified before the Judges of the General court, or court of Oyer and Terminer, at their next succeeding court to be holden, after the taking thereof, without concealment of, or detaining, or embezzeling the same.

Sec. 2. One or more justices of the peace shall and may hear and determine according to the course of common law, petit crimes and misdemeanors, wherein the punishment shall be by fine only, and not exceeding three dollars, and to assess and tax costs.

And in case any person or persons, shall refuse to obey, fulfil and perform the sentence or sentences, given against him or them by the justice or justices herein, it shall and may be lawful for such justice or justices to commit the delinquent or delinquents to jail there to remain until sentence be performed; and it shall be lawful for such justice or justices, whenever the crime shall be committed in his or their presence, or view, to sentence as aforesaid without further examination, and which fines shall be by such justice or justices paid to the clerk of the county court of common pleas, and by him paid into the county treasury; all warrants issued by a justice or justices of the peace, either for apprehending, searching or committing to jail persons suspected, or convicted of crimes shall be under the hand and seal of such justice or justices, and directed to an officer or officers, whose duty it shall be to execute criminal process, and such officer or officers shall obey the warrant or warrants, issued as aforesaid.

Sec. 3 It shall be within the power, & be the duty of every justice of the peace within his county, to cause to be stayed and arrested, all affrayers, rioters, and disturbers of the peace, and to bind them by recognizance to appear at the next

In cases of refusal to commit to prison.

Crimes committed in Justices presence.

Fines to whom payable.

Warrants to be under hand & seal directed to an officer who shall obey the same

Further power and duty of magistrates to cause offenders to be arrested and give recognizance

for appearance at court also for the peace and good behavior in cases of refusal to commit.

To commit capital offenders, and to bail for lesser offences.

To require securities of vagrants.

Their further power.

General court, Circuit court, or court of Common Pleas, to be held within or for the same county, at the discretion of the justice, and also to require such persons to find sureties for their keeping the peace, and being of good behavior until the sitting of the court they are to appear before, and to commit such persons as shall refuse, or delay to recognize & find such surety or sureties; & the justices of the Peace shall examine in all homicides, murders, treasons and felonies done and committed in their respective counties, and commit to prison all persons guilty, or suspected to be guilty of man-slaughter, murder, treason, or other capital offence, and to hold to bail all persons guilty or suspected to be guilty of lesser offences, which are not cognizable by a justice of the peace; And require sureties for the good behavior of idle, vagrant and disorderly characters, swindlers & gamblers, as well as of dangerous and disorderly persons; and shall take cognizance of, and examine into all other crimes, matters and offences, which by particular laws, are put within their jurisdiction.

AN ACT

Establishing courts for the trial of small causes,

Passed Sept. 17, 1807.

Sec. 1. Every action of debt or other demand (except such actions as are herein after excepted) shall be, and the same is hereby made cognizable before any Justice of the Peace or Magistrate in the township, either where the debt or cause of action was contracted, or arose,* where the plaintiff resides or where the defeddant may be found; and the said Justices are hereby authorised to hold a court, to hear, try and determine the same, according to law; and the Jurisdiction of every Justice of the peace under this act, shall be co-extensive with the limits of his county, and his writs precepts and process, authorised by this act, shall run in, and through such county, and may be executed therein but not elsewhere, and the constables of the several townships, and they only, shall be ministerial officers of the said court and the Constables of every township in the territory, to whom any warrant shall be directed for service, by any justice of the Peace of the

**What actions
cognizable
before J. P.
and where.**

**Duty of con-
stables.**

**This is altered by act of 1808 see the act.*

proper county, shall have power and authority to execute the same in any township in the county; and it shall be their duty to execute and return all precepts, summons, warrants, and other process, issuing out of the said court, and to them, or any of them directed and delivered; and to perform all acts appertaining to their offices aforesaid; and all such precepts, summons, and other process, shall be tested of the day on which they are respectively issued; and shall be under the hand and seal of the justice issuing the same.

Test of process.

Magistrates to dismiss vexatious suits.

if disinterested and not related to either party.

If the plaintiff brings his suit in any other township, than is above directed, for the purpose of harassing the defendant, which shall be determined by the magistrate, before whom the suit is commenced; and it appears to the said magistrate, that the said suit was vexatiously commenced, then he shall dismiss the suit, with costs, to the defendant: *Provided always*, That if there is not a justice of the peace residing in either of the townships, (as above mentioned) or if there is not a justice of the peace, residing in the said townships, who is disinterested in the event of the suit, or who is not of kin, to either of the parties, in, or within the second degree, it shall be lawful for the plaintiff to institute his suit before a justice of the peace,

in any of the adjoining townships, in the same county; and the said justice is hereby authorised to take cognizance thereof, any thing herein contained to the contrary notwithstanding.

Sec. 2. The first process which shall be issued against any defendant, by virtue of this act, shall be a summons or warrant, in nature of a *capias ad respondendum*, as the case may require; and the summons shall be used in every case under this act, where the defendant is a freeholder within the county, and resides therein; and the summons to be issued, as aforesaid, shall specify a certain time, not less than six nor more than ten days, from the date of such process; and also a certain place, at which the defendant is to appear; and shall be served at least three days before the time of appearance mentioned therein, by reading the same to the defendant, and serving him, or her with a copy thereof; if required, when the said defendant may be found; but if he, or she, cannot be found, then by leaving a copy thereof at his or her house, or place of abode, in presence of some person of the family, of the age of ten years, or upwards, who shall be informed of the contents thereof; and the constable serving such summons, shall, on the oath of his office, endorse

**What shall
be the first
process.**

**How to be
served.**

Justices to issue warrants in certain cases.

thereupon the time and manner of his executing the same, and shall subscribe his name thereto; *Provided always*, That in every case in which a summons is made the proper process, by this act, if it shall be sufficiently proved on oath, to the satisfaction of the Justice, that the plaintiff will be in danger of losing his or her demand, unless the defendant be arrested, it shall be the duty of the Justice to issue a warrant, in the nature of a *capias*, any thing herein contained to the contrary notwithstanding.

Justices to hear & determine causes in the absence of defendant,

Sec. 3. If the defendant does not appear at the time and place expressed in such summons, and it shall be found, by the return thereon endorsed, that the summons was duly served, and no sufficient reason be assigned to the Justice why the defendant does not appear; then the said Justice may proceed to hear and determine such cause, in the absence of the said defendant.

Against whom warrants are to be issued, & the manner of acting thereon.

Sec. 4. The warrant in nature of a *capias ad respondendum*, shall be used in all cases under this act, in which the defendant is not a freeholder, within the county, and the Constable serving, or executing the same, shall, according to the command thereof, forthwith convey the defendant before the Justice who issued the same, and the said Jus-

tice shall thereupon, either cause the said defendant to give bail, for his, or her appearing, and abiding the event of the said suit; or on neglect or refusal to give such bail, shall order the Constable to convey him, or her to the jail of the county, there to be kept in custody, until the time appointed for the trial of the cause, which shall not exceed three days, from the day of the return of the warrant, or the said justice may direct the Constable to hold the defendant in his custody, until the plaintiff shall have notice and time to attend, and proceed to trial; and the constable, who served such warrant, shall, on the oath of his office endorse thereon the execution thereof, and sign his name thereto.

Sec. 5. The justice shall endorse on the summons or warrant, before the same is delivered to the constable, the sum demanded by the plaintiff, together with the costs that have accrued, and the defendant shall have the privilege of paying the amount of the said demand, and costs so endorsed without further proceedings in the cause; and it shall be lawful for the constable to receive the same, and receipt therefor; which receipt shall be a full and complete discharge to the defendant from the said demand and costs, and if the

**Justices to
endorse sum-
mons & war-
rants.**

**Privilege of
deft. in pay-
ing amount
endorsed.**

Liability of constables in with-holding money.

After 7 days.

To pay double in action case.

constable shall not pay the money so received, to the justice who issued the process, or if he shall not pay the amount of the costs into the hands of the justice, or the debt or demand, into the hands of the plaintiff named in such process, within the space of seven days after he may have received the same; then the said constable shall be liable to pay to the said plaintiff, or his or her legal representatives, double the amount of the said debt or demand, to be recovered with costs of suit, by an action of trespass on the case, in any court having cognizance thereof.

Sec. 6. The recognizance of bail to be taken as is above provided, shall be in the following form, to wit:

Township, }
County, } ss.

Form of recognizance & of bail,

“Whereas A B, (naming the defendant) hath been arrested, and is in custody, at the suit of C D, (naming the plaintiff,) in an action of

for the sum (or property, to the value) of now therefore, you O P, (naming the bail) do acknowledge yourself special bail in the said action in the sum of dollars to be levied upon your goods and chattels, and for want thereof, upon your body,

if default be made in the condition of
your recognizance, which condition
is, that the said A B, (naming the de-
fendant) shall be and appear before
(naming the Justice) on the
day of next, and if
judgment be given against him or her,
that he or she, shall pay the costs and
condemnation money, or surrender his
or her body in execution. Acknowl-
edged before me one of
the Justices of the Peace in and for the
said county of the
day of in the year of our
Lord one thousand ."

And every justice of the peace is here-
by empowered to take such recogni-
zance which shall remain with such jus-
tice, for the benefit of the plaintiff in the
suit; and if the defendant does not ap-
pear, after such recognizance entered
into, at the time and place specified in
the said recognizance, and no sufficient
reason be assigned to the said Justice,
why he or she does not appear; then
the said Justice may proceed to hear and
determine the cause, in the absence of
such defendant; and when the parties
to any suit, to be instituted by virtue of
this act, shall appear at the time and
place appointed for trial, the said Jus-
tice shall proceed to hear and examine
their respective allegations and proofs,

**The justices
to proceed if
the deft. does
not appear
after recog-
nizance.**

**Without
good cause
shewn to
give judgt.
When par-
ties appear
proceed to
trial of cause
upon equita-
ble princi-
ples.**

**May grant
continuance
7 days for
pltf. and 14
for deff.**

**May issue de
dimus.**

**When an
action is en-
tered by a-
greement
without pro-
cess, to pro-
ceed, to judgt.
& execution.**

**Costs to be
given deff. in
case of non
suit or dis-
mission.**

and shall thereupon give judgment, with costs of suit, according to the justice and equity of the case, unless he shall think it proper, on application of either party to adjourn the trial; which adjournment shall not be made for a longer period than seven days, when moved for by the plaintiff; nor for a longer period than fourteen days, when moved for by the defendant, except in peculiar cases, where a longer continuance may be necessary for either party to obtain depositions; for which end the said Justices is hereby authorised upon good cause shewn, to issue a *De-dimus*, returnable before himself at such time thereafter, as he may think reasonably necessary.

Sec. 7. When parties agree to enter, without process, before a justice of the peace, any action herein made cognizable before him, such justice shall enter the same on his docket, and shall proceed to judgment and execution, in the same manner, as though a summons or warrant had been issued, served and returned; and in all actions instituted by virtue of the provisions herein contained, in which the plaintiff shall be non suited, discontinue or withdraw his or her suit, without the consent of the defendant, the said justice shall give

judgment for the defendant, for the costs which have accrued.

Sec. 8. If in any cause instituted as aforesaid, it shall appear at the trial that there is a balance due to the defendant from the plaintiff, then the justice shall enter up judgment against such plaintiff, in favor of the defendant, for the sum so appearing to be due, with costs of suit; and such defendant shall be entitled to execution in the same manner, as though such plaintiff had been the defendant in the cause.

When a balance appears in favour of deff.

To give judgment and award exon.

Sec. 9. The parties in every case arising under this act, shall have the privilege of referring the matter in controversy between them to referees, who shall be chosen and mutually agreed on between them, and who, after having heard the proofs and allegations of the parties, shall make their report in writing to the justice, and the said justice shall receive and file the same, and thereupon enter judgment accordingly.

Parties may choose referees.

Whose report the J. shall receive and enter Judgt. thereupon.

Sec. 10. Where judgment shall be given against the plaintiff or defendant under this act, the justice who gave such judgment shall grant execution thereupon, returnable to such justice within twenty days, thereafter, commanding

Exon. to be granted on such judgt.

**To operate
as fi fa & ca
fa Constable
to commit to
jail.**

**Jailor to re-
ceive and
keep.**

**On escape
shff. liable.**

**Remedy over
in cases where
the C. return
nulla bona.**

**Transcript to
be certified
to C. P.**

the constable to make the debt or damages and costs, of the goods, and chattels of the party, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of such party, and to convey him or her to the common jail of the county; and the sheriff or keeper of such jail is hereby required to receive the person or persons so taken in execution, and him, her or them safely to keep until the sum recovered, and the costs of suit be fully paid, and in default of such safe keeping, the said sheriff shall be answerable to the party aggrieved, who shall have the same remedy against him as is provided by law in cases of escapes. But in case the constable cannot find goods and chattels belonging to the party, against whom such execution hath issued, sufficient to satisfy the judgment, it shall and may be lawful for the party in whose favor such judgment hath been rendered, to apply to the justice for a transcript thereof, whose duty it shall be to grant the same, which being filed in the office of the clerk of the court of C. pleas in the county in which the recovery hath been had; execution may issue therefrom according to the rules and practice of the said court; and the amount of the said judgment, together with the costs of such removal, may be levied on the lands and tene-

ments of the party against whom the same hath been rendered: *Provided always*, That no execution shall issue from the court of common pleas, in manner aforesaid, after the party hath been taken in execution, and committed to jail, until he or she shall be discharged from imprisonment under such execution: *And provided also*, That when a judgment shall be obtained against executors or administrators, execution shall issue thereon in the same manner as it is issued against them in the courts of record within the territory: *And provided also*, That when judgment shall be rendered as aforesaid, against a freeholder, no execution shall issue thereon until the expiration of thirty days, if the judgment be for the sum of six dollars and under, or until the expiration of sixty days if the judgment be for any sum over six and under twelve dollars; nor until the expiration of ninety days, if the judgment shall be for the sum of twelve dollars and upwards from the time of the render of such judgment, unless the party in whose favor such judgment hath been rendered, shall make it appear on oath or affirmation, to the satisfaction of the justice, that he or she, is in danger of losing his or her debt, or damages, if such delay of execution be allowed, in which case the said justice shall issue exe-

**And exon
issued and
levied on
land.**

**Must be first
released from
Jail.**

**Exons. agst.
exrs. & adm
to be issued
as in other
cases.**

**Exons. agst.
freeholders
not to issue
until expira-
tion of 30
days for 6
dollars 60
days for 12
dollars 90
days for 18
dollars.**

**Unless par-
ty will make
oath or af-
firmation of
danger of lo-
sing debt
when exon.
shall issue
immediately.**

**Persons not
freeholders
to have stay
of exen.
On giving
special bail.**

**Unless deft.
gives securi-
ty.**

**A deft. not
a freeholder
appearing at
return of or
without war-
rant and ob-
taining securi-
ty in confessi-
on of Judgt.
be entitled
to stay.**

cution forthwith, as is herein above provided, unless the party against whom execution is moved for shall immediately give good and sufficient security to the adverse party, for the payment of the debt or damages and costs, within the space of thirty, sixty or ninety days, as the case may be: *And provided also*, That if judgment shall be given as aforesaid, against a person who is not a freeholder, such person shall have the execution against him or her respited for the like term of thirty, sixty or ninety days, as the case may be, on his or her entering into recognizance to the adverse party with one sufficient security, in the nature of special bail, conditioned to deliver the body of the said party, to the sheriff of the county, at, or before the expiration of the time so to be allowed, or to satisfy the amount of the judgment.

Sec. 11. If any defendant who is not a freeholder shall appear at the return of the warrant, or shall appear by consent without process, & procure a good and sufficient freeholder, resident in the county, to join with him or her, in a confession of judgment to the adverse party, with costs, then such defendant shall be entitled to all the benefits and privileges which any freeholder is entitled to by virtue of this act.

Section 12 repealed.

Sec. 13. It shall be the duty of the justice to make up and tax a bill of costs, in every action instituted before him, according to the provisions of the law, ascertaining the fees to be allowed in such cases, setting down in said bill, each item, separately and distinctly, a true copy of which bill, certified and signed by the said justice, shall be delivered to the party against whom judgment hath been entered, or left at his or her usual place of abode, before such party shall be called upon to discharge or satisfy the said judgment, and every justice who shall issue an execution on any judgment, or receive the amount thereof, without having previously tendered to the party, against whom such judgment hath been rendered, a certified bill of the costs as above provided, or without having delivered the same to the constable, to be left at his or her usual place of abode, and every justice who shall insert in the said bill of costs any charge for services not actually performed, than is allowed by law, shall forfeit and pay to the party against whom such bill hath been made and taxed, a sum of money equal to the amount of the cost taxed in the said suit; which sum shall and may be recovered with costs, before any justice

**To make up
and tax a
bill of costs.**

**Stating items
making copy
and certifying
same, to be
delivered to
the debt.
or left at
usual place of
abode.**

**J issuing
exon. before
bill delivered
or charge for
services not
rendered to
be fined in
amt. thereof.**

W w

To be recovered before any J. P.

of the peace within the county, and the jurisdiction of every justice, for the purpose of prosecuting for, and recovering such forfeiture, shall be coextensive with the boundaries of the county, any thing herein contained to the contrary notwithstanding; *Provided always*, That if the said forfeiture shall exceed the sum of eighteen dollars, then the sum may be recoverable by action of debt in any court of record within the Territory, and not elsewhere.

Section 14, 15, 16 and 17 are not in force.

Where actions by consolidation may be brought in C. P.

Under what penalty.

Sec. 18. No Justice of the Peace, by virtue of the provisions contained in this act, shall institute or sustain, two, or more actions or suits between the same parties for demands which are of such a nature, as by the rules of law may be consolidated in one action, under the penalty of eighteen dollars, to be recovered for the use and in the name of any person who shall first sue for the same, in the same manner as is provided in the thirteenth section of this act; and every judgment recovered against any defendant or defendants, by virtue of the provisions herein contained, may be pleaded in bar, and such plea may be received in any court within the territory, as a complete bar to any sub-

sequent action or suit, instituted by the same plaintiff or plaintiffs, against the same defendant, or defendants, for any demand due, and owing from the same defendant or defendants to the same plaintiff or plaintiffs, at the time of instituting the action in which such judgment shall have been obtained, if the demand on which such subsequent action or suit shall have been commenced, shall be of such a nature, as by the rules of law, might have been consolidated and joined in one action.

Sec. 19. No constable who does not possess a freehold estate of the value of three hundred dollars or upwards, shall be permitted to serve or execute any process that shall or may be issued, under this act, until he hath executed and delivered a bond with one good and sufficient freeholder as his security, payable to the Sheriff as treasurer of the county in which he resides, in the penal sum of three hundred dollars, with a condition that he will faithfully perform the duties of his office, as constable, and that he will justly and fairly account for, and pay over all monies, that may come to his hands, upon or by virtue of any process issuing under this act, according to the provisions thereof, and every bond executed and delivered as aforesaid, shall be held for the benefit

When Constables shall give bond.

Condition thereof.

**To be hold-
en for the
benefit of
suitors.**

**When condi-
tion broken
how to pro-
ceed.**

**From time to
time to a-
ward exon.**

**Further rem-
edy against
C & security**

and security of all suitors in the courts of Justices of the peace of the respective townships or counties; and if the condition of such bond shall at any time be broken, it shall be the duty of the Sheriff on demand made for that purpose, to deliver the said bond to the party grieved, who is hereby authorised and empowered to institute an action thereon, having first indemnified the said Sheriff against all costs that may accrue on such prosecution, and after judgment obtained on any bond, executed as aforesaid, the court may proceed from time to time, to award execution against the defendants for money withholden or embezzled by the said constable, or for penalties recovered against him by virtue of the provisions herein contained, until the amount of monies levied shall equal the amount of such judgment; *Provided*, That no execution shall issue as aforesaid, until the defendants be served with a copy of a rule to shew cause why such execution should not be awarded, and if any person or persons shall be injured by the illegal conduct of any constable under a colour of process issuing under this act, and shall thereupon obtain judgment against such constable, & goods and chattels cannot be found sufficient to satisfy the said judgment, such person or persons shall have the

same remedy against the said constable and his security as is herein provided.

Sec. 20. This act shall not be construed or understood to extend to, or embrace, nor shall any thing herein contained extend to, or embrace any action of debt on bonds for the performance of covenants, actions of replevin, or upon any real contract, actions of trespass on the case, for trover and conversion, or slander, or actions of trespass, vi et armis, or actions where-in the title of lands shall in any wise come in question.

Exceptions.

**Actions not
cognizable
before a Jus-
tice.**

Section 21, Not in force.

Sec. 22. No Judge of a court of Common Pleas, of any county within this Territory, shall act as a Justice of the Peace for the trial of small causes.

**No judge of
C. P. to try
small causes.**

AN ACT

*To amend an act, entitled "An act estab-
lishing Courts for the Trial of Small
Causes.*

Passed October 25th, 1808.

Sec. 1. Whereas, abuses have arisen from the operation of that part of the

law of the territory, to which this act is an amendment, which provides that actions of debt, or other demand should be made cognizable before any Justice of the Peace, or Magistrate in the township in which the plaintiff resides; for remedy whereof -

**Suits to be
bro't where
debt cont ac
ted or defen
dant found.**

Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same, That every action of debt, or other demand (except as in the said law is excepted) shall be, and the same is hereby made cognizable before any Justice of the Peace, or Magistrate, in the township either where the debt or cause of action was contracted or arose, or where the defendant resides or may be found, and not elsewhere.

Sec. 2. *And whereas,* doubts have arisen whether Magistrates in one township, have by law authority to compel the attendance of witnesses residing in any other township in the same county, for obviating of which doubts;

**Justice may
supoena wit-
nesses from
any town-
ship.**

Be it further enacted, That in all actions and causes properly examinable into before any Justice of the Peace in any township in this territory, for the trial of small causes such Justice may issue his subpoena to compel the atten-

dance of witnesses on any trial before him, from any other township in the same county; and if any person being duly subpoenaed as a witness in any cause cognizable before a Magistrate for the trial of small causes, shall neglect, or refuse to attend at the day and time in such subpoena mentioned, he or she, so neglecting or refusing, shall be fined in any sum not exceeding the amount of the debt or demand sued for, to the use of the party on whose behalf such witness was so subpoenaed, for which fine with costs, the said Justice shall issue execution, against such witness, unless such witness within thirty days after the said fine shall be by such Justice so said, render on oath a reasonable excuse to the satisfaction of such Magistrate for such delay: *Provided*, That no such witness shall be finable unless such subpoena shall have been served at least two days before the trial, where the witness resides within thirty miles of the place of residence of the Magistrate, and one day more for every thirty miles, or less, above that distance: *Provided also*, That where any witness lives out of the county, the Magistrate may, and he is hereby authorized to issue a *dedimus* to take the deposition of any such witness, as is usually done in the courts of record in this territory, and which shall be taken and read in

failing to attend fined how much &c.

Execution to issue unless excused.

Prerequisite to fining witnesses.

Witness living out of county justice grant *dedimus*

evidence, under the same rules and regulations that such depositions are usually taken upon commissions issuing from the said court.

Section 3, repealed

Stay of execution how long and for what sums.

Sec. 4. *And be it further enacted*, That upon any judgment which may hereafter be rendered as aforesaid, no execution shall issue thereon until the expiration of thirty days, if the judgment be for the sum of six dollars or under; or until the expiration of sixty days, if the judgment be for any sum above six or under twelve dollars; nor until the expiration of ninety days, if the judgment be for any sum of, or under eighteen, and above twelve dollars or upwards; nor until the expiration of one hundred and twenty days, if the judgment be for any sum above eighteen dollars, and not exceeding thirty dollars; nor until the expiration of one hundred and fifty days, where the judgment is thirty dollars and upwards, not exceeding forty dollars; any thing in the said act, to which this is an amendment to the contrary notwithstanding.

AN ACT

Concerning Justices of the Peace.

Passed Dec. 24, 1814.

Sec. 1. Be it enacted by the Legislative council and House of Representatives, and it is hereby enacted by the authority of the same, That the Justices of the Peace who have been or shall be appointed and commissioned, in and for the several counties in this Territory that now exist and in such counties as may hereafter be erected, shall jointly or severally, have full power to keep, and cause to be kept all laws at present in force, or that may hereafter be made for the conservation of the Peace, and for the good government of the citizens and inhabitants of this Territory within the said counties respectively, according to the force form and effect of all such laws, of which they now have or hereafter may have Jurisdiction; and to apprehend, imprison and punish all persons offending against those laws or any of them in the said respective counties, in such manner as according to those laws, shall be right and proper, and to cause to come before them, or any of them, all persons who shall

**Justices of
the peace to
cause to be
kept the
peace in their
respective
counties.**

X x

**To bind to
good beha-
viour.**

**To apprehend
suspicious
persons.**

break the peace or have used or shall use threats against any citizen or inhabitant or any person within this Territory, and under the protection of its laws, concerning his or her bodies or the firing of his or her house, barn or other buildings, or the unlawful destruction or injury of his or her property; and also such persons, who are not of good fame where they are found to enter into recognizance, with sufficient security for the peace or their good behaviour towards the people and inhabitants of this Territory and all those under the protection of its laws; and if the persons, against whom such proceedings are directed, shall fail to enter into such recognizance, it shall be the duty of the Justice of the peace to cause him or her to be safely kept in prison till he or she shall do the same. And further the said Justices shall have power to perform, and it shall be their duty to execute, all such matters, acts and things, as by law appertain to their office, and are or shall be enjoined on them and committed to their charge and execution.

**To recognize
persons to
appear at
supreme
court,**

Sec. 2. That every Justice of the Peace, who shall take any recognizance for the keeping of the peace or good behaviour, shall also make it a condition in said recognizance that he, she

or they, therein bound, shall appear on the first day of the next succeeding session of the supreme court to be holden in the county, in which the case shall happen, and continue to abide there till discharged by said court. It shall also be the duty of said justice, to recognize all the witnesses to appear at said court to testify against the offender ; and it shall be the duty of such justice to return the recognizances thus required to be taken by him to said court, which shall direct the parties bound to be called, and if they or any of them fail to appear, their default shall be entered & there recorded, and the recognizances shall be prosecuted to effect. If however, the party bound shall appear, the said court shall hear the evidence and may discharge or continue the recognizance as shall appear to be most consistent with law.

**Also the
witnesses.**

**And return
the recogni-
zances to
the court.**

Sec. 3. It shall be lawful for any justice of the peace, upon oath being made before him, that any person hath committed, or that there are just grounds to suspect that he or she hath committed any criminal offence within his county, to issue his warrant to arrest the person so charged and to enquire into said charge and commit the person so charged to jail, or bail, or discharge him, according to the proof that may be addu-

**To issue war-
rant to ap-
prehend
offenders.**

To admit to bail, discharge or commit.

Proviso.

To recognize the witnesses to appear at court.

ced and to the law arising thereupon; *Provided however*, That said Justices shall have no power to admit to bail, or mainprize any person or persons charged with treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or suspicion thereof, or with any crime punishable with death, or burning in the hand or elsewhere. And in all cases where the said Justices shall admit to bail or mainprize, they shall recognize the party bound, to appear on the first day of the next succeeding session of the supreme court in the county in which the transaction may happen, there to remain till discharged by said court, & in all cases where the Justices of the peace shall either commit the person or persons charged to Jail, or admit him or her to bail or mainprize, the said Justices shall recognize the witnesses to appear at the time aforesaid and at the court aforesaid to give testimony in the case whenever thereto required.

When the offender goes into another county how proceeded against

Sec. 4. Be it enacted by the authority aforesaid. That in case any person, against whom a warrant shall be issued by any Justice or Justices of the peace of any County of this Territory for any offence therein committed or done, shall escape go into, reside or be in any other county out of the jurisdiction of the Justice or Justices granting such

warrant as aforesaid, it shall and may be lawful for and it is hereby declared to be the duty of any Justice or Justices of the Peace of the county, where such person shall escape go into, reside or be, upon proof being made upon oath or affirmation of the hand writing of the justice or justices granting such warrant, to endorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant and to all other persons, to whom such warrant was originally directed, to execute such warrant in such other county out of the Jurisdiction of the justice or justices granting such warrant as aforesaid and to apprehend and carry such offender before the justice or justices who endorsed such warrant or some other justice or justices of such other county where such warrant was endorsed, and in case the offence for which such offender shall be so apprehended as aforesaid shall be bailable in law by a justice of the Peace, and such offender shall be ready and willing to give bail for his or her appearance at the next succeeding session of the supreme court, to be holden for the County, in which the offence was committed, such Justice or Justices of the Peace of such other County, before whom such offender shall be brought, shall and may take bail of such

**To be carried
before a jus-
tice of that
county who
may bail.**

Justices to give the papers to the person who arrested the offender.

He to deliver them to the clk.

Penalty.

offender for his or her appearance at the next succeeding session of the Supreme court to be held in and for the County where such offence was committed, in the same manner as the Justices of the Peace of the proper County might have done and the justice or Justices of such other County so taking bail as aforesaid, shall deliver the recognizance of bail, and all other proceedings relating to said offender and offence before him had to the constable or other person or persons so apprehending such offender as aforesaid who is and are hereby required to receive the same and to deliver over as soon as practicable, such recognizance, and other proceedings to the clerk of the Supreme court in the county where the offender may be required to appear by virtue of such recognizance; And such recognizance and other proceedings shall be as good and effectual in law to all intents & purposes, and of the same force and validity as if the same had been entered into, taken or acknowledged, before a Justice or Justices of the Peace, in and for the proper County where the offence was committed. And the same proceedings shall be had thereon, and in case such Constable or other person, to whom such recognizance or other proceedings, shall be delivered as aforesaid, shall refuse or neglect to deliver over

the same to the clerk of such court as aforesaid where the offender is required to appear by virtue of such recognizance, such Constable or other person shall forfeit thirty dollars to be recovered against him with costs by action of debt, bill, plaint, or information, in any court of record having cognizance thereof, by any person or persons, who will prosecute or sue for the same. And in case the offence for which such offender shall be apprehended in any other county as aforesaid, shall not be bailable in law by a justice of the peace or such offender shall not give bail for his or her appearance in the manner and according to the mode herein prescribed, to the satisfaction of the justice or justices, before whom such offender shall be brought, in such other county, then the constable or other person, so apprehending such offender, shall carry and convey such offender before one of the justices of the peace in the proper county, where such offence was committed there to be dealt with according to law.

If the offence be not bailable or the person does not give bail, he is to be taken back to the county where the offence was committed.

Sec. 5. Be it enacted by the authority aforesaid, That no action of trespass or false imprisonment, or information, or indictment shall be brought, sued, commenced, exhibited, or prosecuted, by any person or persons whatsoever, against the Justice or Justices, who shall

Justice not liable for indorsing the warrant.

endorse such warrant for, or by reason of his endorsing the same, but the person aggrieved shall have all the redress he may be entitled to against the Justice or Justices who originally granted such warrant in the same manner as such person or persons might have had in case this clause in this act had not been made.

Not to take cognizance of sums over twenty dolls.

Discounts allowed on trial if notice be given.

Exon not to issue agt. body of deft.

Unless it exceeds 4 dls.

Sec. 6. Be it further enacted by the authority aforesaid, That the Justices of the peace in each county in this territory, shall have cognizance in all cases, wherein the demand shall not exceed twenty dollars, in which said causes they may give judgment, and thereupon award execution; and in all such cases discounts shall be allowed, and the Justices shall give judgment either for the plaintiff or defendant as the case may be; *Provided*, the plaintiff have reasonable notice that such discount is intended to be offered: *Provided always*, that no execution shall be issued against the body of any defendant, unless the judgment exceed the sum of four dollars, which execution shall be executed and returned by the sheriff or constable, to whom directed, in the same manner as other executions are to be executed and returned.

Sec. 7. Be it further enacted by the authority aforesaid, That in all cases as

aforesaid brought before any Justice of the peace, the best evidence to establish the demand of either plaintiff or defendant shall be required; *Provided however*, that in all cases where either party may not have a witness or other legal evidence to establish a demand or discount or set off, the party, claiming such demand or discount, shall be permitted to prove the same by his own oath, if the adverse party shall refuse to deny the same upon his oath which the Justice of the peace, before whom the case may be depending, shall be authorised to tender or administer to the party who may deny or refuse to admit such demand or discount, and no person shall be permitted by said Justices of the peace to deny his bond, promisory note, or bill for money or other thing, unless such person shall first make affidavit to the truth of such denial.

Party may swear to his acct. if the other will not deny it on oath.

Sec. 8. And be it further enacted by the authority aforesaid; That in case any person, after being summoned to answer any complaint for debt before any justice, shall before the day of trial remove out of the county, in which he was so summoned, such justice may nevertheless give Judgment against him in the same manner as if he had been

If deft. removes before judgment what.

Y Y

If deft. removes after Judgt. justice may send his execution to another county after him.

personally present. And if any person after Judgment of such justice shall remove out of the county, before satisfaction made, such Justice may issue execution against such person, which may be levied by any sheriff or constable of the county to which such person may have removed, provided that in all such cases the Justices so issuing such execution to another county shall endorse on the back thereof that the party had removed after Judgment.

Constables duty.

Sec. 9. And Be it further enacted by the authority aforesaid. That it shall be the duty of constables to levy all executions put into their hands, agreeably to the tenor thereof; and to make due returns of the same, together with all summons or warrants to the magistrate to whom they may be made returnable and if any constable shall fail to execute and make such returns or to pay to, or account with, any person for whom he may have received money on execution within ten days after the receipt thereof, the person so injured as aforesaid may upon application to any Justice within the county obtain a warrant against him; and such Justice shall upon proof thereof, award Judgment and execution for the same and all costs against such constable and also fine him for such abuse in a sum

Failing how punished.

not exceeding ten per cent on the amount so withheld; and in case of neglect or refusal to serve and return any warrant or summons as aforesaid, may fine the constable so offending in a sum not exceeding the amount of the demand against the defendant.

Sec. 10. Be it further enacted by the authority aforesaid. That Justices of the Peace may issue summons for witnesses in any cause civil or criminal to be tried or enquired into by them, which being served three days before the trial, such witness shall be subject to a fine of three dollars for default and the Justice may issue execution for the amount, *Provided* said witness having notice to attend to answer such default shall not be able to shew a sufficient excuse for not attending as required to do.

**Justice to
issue sum-
mons for
witnesses**

**Witnesses
punishable.**

Proviso.

Sec. 11. And be it further enacted by the authority aforesaid. That if any Justice of the Peace shall be insulted or unlawfully disturbed in the execution of the duties of his office, said Justice shall have power to fine any person so offending in any sum not exceeding ten dollars or to imprison or confine such offender for the space of twenty four hours; and all constables, sheriffs or other citizens shall be aiding and assisting said Justice in the execu-

**Justice to
punish con-
tempts.**

tion of such imprisonment, or on their failure so to do, the said justice shall have power to fine any and each of them in any sum not exceeding ten dollars and to issue execution thereupon.

Fines to go in aid of the county levy. Justice shall not keep a docket.

Sec. 12. All fines that may be inflicted by Justice of the peace shall be accounted for and go in aid of the county levy. No justice of the peace shall hereafter be obliged to keep any docket.

County court to build and take care of courthouses and jails.

Sec. 13. Be it &c. That the county courts in their respective counties, shall cause to be erected and kept in good repair or where the same shall be already built, shall maintain and keep in good repair at the charge of the county one good convenient Court-house and one sufficient jail and shall for that purpose be and hereby are empowered to levy a tax on the county at the time and in the manner provided by law.

To enquire into the conduct of jailors and state of jails.

Sec. 14. Be it further enacted, That the said county courts shall have full power and authority at all times, to enquire into the conduct of jailors and the state of jails in their respective counties, and on neglect of duty, to cause such jailors to be removed by an order to the sheriff for that purpose.

Sec. 15. Be it, &c That the said county courts shall, and they are hereby empowered and required to cause to be marked, bounded and recorded, the bounds and rules of their respective county prisons, not exceeding Ten acres, which marks and bounds may be renewed from time to time as occasion may require, but every alteration in those marks and bounds shall be recorded; And every prisoner not committed for treason or felony, giving good security to the Sheriff to keep within the said rules shall have liberty to walk therein, out of the prison and keeping within said bounds shall be adjudged in law a true prisoner.

To designate prison bounds

Who may take the benefit of prison bounds.

Sec. 16. Be it &c. That in all judgments given by a Justice of the peace when the amount thereof shall exceed four dollars the party, against whom such judgment shall be given, shall have a right to appeal from the same to the next County court to be held for the County wherein the judgement was rendered provided there be ten days between the granting the judgment on which the appeal is made & the setting of the court. Whereupon the Justice or justices who gave such judgment shall suspend all proceedings thereon and shall return the papers and the judgment he had given to the Clerk of said

Appeal from justice of the peace to the county court

**To be tried
in a summary
way**

**Cannot be
continued
beyond the
2d term**

**Appeal how
applied for
and obtained**

County; & the said court shall thereupon at their next session hear and determine the same in a summary way without pleading in writing, according to the justice of the case, unless the said court for good cause to them shewn, shall continue the same to the next court, beyond which second court the said appeals shall not be continued, *Provided however* that the said court shall at all times admit of any amendment of the papers or proceedings that may be necessary to a fair trial of the cause upon its own intrinsic merits — And execution may be taken out on a judgment given by the said court on such appeal in the same manner as if the cause had been originally instituted in said court. In all cases where a party may desire to appeal from a judgment of a justice of the peace pursuant to this act, he shall receive from the justice a copy of such judgment, and produce the same to the clerk of the county court and shall enter into bond in the office of such clerk in a penalty double the sum of such judgment with security, who shall be approved of by the justice, from whose judgment the appeal is made; such bond shall be conditioned for the payment of the debt and costs in case the judgment shall be affirmed on the trial of the appeal. Upon the execution of such bond, the clerk shall certify the same to the magistrate

and constable enjoining further proceedings and issue a summons to the appellee to appear at the court to which the appeal is returnable, noting the day the same shall be set for trial by the clerk, the constable shall summon the appellee, his agent, or attorney if within the county which summons shall be executed ten days before the court where the same shall be tried.

Sec. 17. Be it &c. That where the appellee shall reside in another county, the clerk of the court, to which the appeal is made, shall have power and authority to issue a summons to cause such appellee to appear before the court, which summons shall be executed by the appellant or some other person for him on the appellee, and satisfactory proof of such service shall be made to the court to which the summons shall be returnable; and if the appellant shall neglect to execute or cause to be executed such summons upon the appellee before the second court after praying an appeal, the judgment of the justice shall stand confirmed.

**If the appellee
resides out of
of county
how to be
served with
summons**

Sec. 18. Be it, &c. That it shall be the duty of the Justice who gave the judgment, to lodge with the clerk at or before the next court any papers produced and read on the trial before

**Justice to
lodge the pa
pers with**

**Clerk docket
the cause**

**Parties to
have benefit
of the legal
testimony be-
fore the Justi-
ce**

**The county
court to be
obeyed in the
same manner
as the court
of C. P.**

him, and if no papers to certify the same to the clerk, noting thereon all the costs. The clerk shall docket the cause in order. The court shall proceed and determine the appeal in a summary way at their next court and give such judgment as to them shall seem just with respect to the costs as well as the debt, but may grant a continuance if they deem it right, to the next court but not longer; and in all appeals from the judgment of a Justice or Justices of the peace, the party shall have the benefit of all legal testimony that was before the Justice of the peace, who rendered the judgment or that might have been lawfully admitted by said Justice in the trial before him.

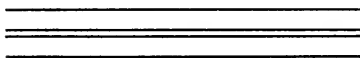
Sec 19 Be it, &c. That the said county court shall have power to issue all process of every description that may be necessary to the execution of the powers with which they are or may be invested. All officers, who were bound to obey the judgments or orders or proceedings of the courts of Common Pleas in those cases in which the jurisdiction of those courts of Common Pleas is by this law transferred to the county courts shall be equally subject to the authority of the county courts & be bound to perform the same duties in regard to them, in like manner as if

there had been no change in those courts except as to the name only.

Sec. 20. Be it, &c. That the county courts when acting in their judicial capacity shall have the same power to punish contempts of their authority as the supreme court does or may possess, and all judgments given by said courts upon appeal shall be final.

County court has same power to punish contempt as supreme court. Judgment on appeal final.

This law shall take effect from and after the passage thereof.



MARRIAGES.

AN ACT

Regulating Marriages,

Passed September 17th, 18 7.

Sec. 1. Male persons of the age of

Z z

**At what age
persons may
marry.**

seventeen years, and female persons of the age of fourteen years, and not prohibited by the laws of God, may be joined in marriage.

By whom.

It shall be lawful for any of the Judges of the General court, or the court of Common Pleas, or any of the justices of the peace in their respective counties ministers of any religious society, or congregation, within the district in which they are settled, and the society of Christians, called Quakers, in their public meetings, to join together as husband and wife, all persons of the above description, who may apply to them, agreeably to the rules and usages of the respective societies, to which the parties belong.

**In what man-
ner intention
of the parties
to be publish-
ed &c.**

Sec. 2. Previously to persons being joined in marriage, as aforesaid, the intention of the parties shall be made known, by publishing the same for the space of fifteen days at least, either by the same being publicly and openly declared, three several Sundays, Holydays, or other days of public worship, in the meeting in the towns where the parties respectively belong, or by publication in writing under the hand and seal of one of the judges before mentioned, or of the justices of the peace within the county, to be affixed in some public

place in the town wherein the parties respectively dwell, or a license shall be obtained from the Clerks of the courts of Common Pleas, of their respective counties, which said license shall authorise the marriage of the parties, without publication, as is herein required, for which license the Clerk shall be entitled to have and receive the sum of one dollar, and the said Clerk shall keep a record of such licenses by them issued.

**Licence how
obtained and
from whom.**

Fee.

Sec. 3. Male persons under the age of twenty one years, and females under the age of eighteen, shall not be joined in marriage, without first obtaining the consent of their fathers, respectively, or in case of the death or incapacity of their fathers, or their mothers, or guardians: *Provided*, Such parents or guardians live within the territory; where persons not resident within the territory, apply to be joined in marriage, the consent of fathers, mothers and guardians shall be obtained in like manner as if they were citizens of the territory.

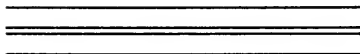
**Under what
age to obtain
previous con
sent of paren
ts &c.**

Sec. 4. A certificate of every marriage solemnized as aforesaid, signed by the judge or justice, or minister, solemnizing the same, or in case of Quakers, by the Clerk of the meeting, shall be by such Judge, Justice, Minister or Clerk, respectively transmitted to the Clerk of

**Certificates
of marriage
by whom gi-
ven, &c.**

**Exemplifica-
tion thereof
to be deem-
ed evidence.**

the court of Common Pleas, in their respective counties, wherein the marriage has been solemnized, within three months thereafter, to be entered on record by the said clerk, an exemplification of which shall be evidence of such marriage.



M I L I T I A.



AN ACT

Establishing and regulating the Militia.

Passed Sep. 17, 1807.

**Persons lia-
ble to militia
duty.**

Sec. 1. Each and every free, able bodied white male citizen of the Territory who is, or shall be of the age of eighteen years, and under the age of forty-five years, except as is herein after excepted, shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside, within twenty days

next, after such residence; and it shall at all times hereafter, be the duty of such captain or commanding officer of a company to enrol every such citizen as aforesaid, and also those who may from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, except, as is herein after excepted, shall come to reside within his bounds, and shall without delay notify such citizen of the said enrollment, by a proper non-commissioned officer of the company, by whom such notice may be proved; and every citizen so enrolled and notified, shall within six months thereafter, provide himself with a good musket, a sufficient bayonet and belt, or a fusee, two spare flints, a knapsack and a pouch, with a box therein, to contain not less than twenty four catridges, suited to the bore of his musket or fusee, each catridge to contain a proper quantity of powder and ball, or a good rifle, knapsack, pouch and powder horn, with twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and every enrolled person shall so appear armed, accoutred and provided, when called out to muster or into service, except when called out on company days, to exercise only, he may appear without a knapsack; The commissioned officers

To be enrolled by commanding officers of co's

How armed

Commissioned officers how armed.

To appear in uniform.

Colour, how determined.

shall severally be armed with a sword or hanger, and espartoon; and it shall be the duty of each officer, noncommissioned officer and each militia man, when ever they shall meet for the purpose of mustering to appear in some cheap uniform, the colour and form of which shall be determined by a board composed of the commissioned officers of each regiment, who shall meet for that purpose, on or before the first day of March next, or at any time thereafter, when the colonel of each regiment shall direct; and the officers and men of the said regiment shall within six months after the said meeting, provide themselves with the uniform, as directed by the said board.

Arms, &c. exempted from all seizures.

Every citizen so enrolled, and providing himself with arms, ammunition, uniform and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, damages, or the payment of taxes.

What persons exempt from militia duty.

Sec. 2. The Judges of the supreme court, the attorney general, the Clerk of the supreme court of the Territory, all ministers of the gospel, licensed to preach according to the rules of their sect, all keepers of jails, and such other persons, as are exempted by the laws of

the United States, shall be and are hereby exempted from militia duty.

Sec. 3. The militia of the Territory shall be divided into divisions, brigades, regiments, battalions and companies; each division, brigade and regiment shall be numbered and a record of such numbers made in the adjutant general's office, and when in the field or in service in the Territory, each division, brigade or regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number the highest in rank; each division shall consist of two brigades; each brigade of not less than two, nor more than four regiments; each regiment of two battalions; each battalion of four companies, and each company shall consist of sixty-four privates; *Provided always*, That if local circumstances should require it, a company may be formed of forty, or extended to eighty rank and file.

**Militia how
divided.**

Sec. 4. The militia of the territory, shall be officered as follows, to wit: To each division there shall be one major general, who shall be allowed two aid de camps, with the rank of major; To each brigade one brigadier general, with one brigade inspector, to serve as brigade major, with the rank of major, to be appointed by the brigadier general,

And officer d

from among the commissioned officers of his brigade; To each regiment one lieutenant colonel commandant; To each battalion one major, and to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, and one fifer. The regimental staff shall consist of one adjutant, one quarter master, and one paymaster, to be chosen from among the subaltern officers, if fit persons can be found; one surgeon, one surgeon's mate, one sergeant major, one quarter master sergeant, one drum major, and one fife major.

**One com'ny
of artillery
and one troop
of horse to
attached to
each brigade.**

**How armed
& officered.**

Sec. 5. There shall be attached to each brigade, one company of artillery, and one troop of horse, when in the opinion of the brigadier general, the said companies, or either of them, can, with convenience, be raised and equipped within his brigade. - To every company of artillery, there shall be one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer, and not less than twenty, nor more than thirty matrosses; the non commissioned officers, shall be armed with a sword or hanger, & each private, or matross, shall be furnished with a fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges. - And to each

troop of horse there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter and not less than thirty, nor more than sixty privates.

The commissioned officers shall furnish themselves with good horses, saddles, and holsters, and be armed with a sword, and pair of pistols; and each dragoon, shall provide himself with a servicable horse, a good saddle, holsters, a bridle, a mail pillion, and valice, a breast plate and crupper, a pair of boots, and spurs, and be armed with a sabre, and pistol, or pair of pistols, and cartridge box to contain twelve cartridges for pistols. Each company of artillery, and troop of horse, shall be formed of volunteers from the brigade, and be enlisted by the officers commanding them, and shall be uniformly cloathed in regimentals, furnished at their own expense, the colour and fashion to be determined by a board to be composed of the officers of each of the said companies.

Sec. 6. And whereas it will be of great utility and advantage, in establishing a well disciplined militia, to an-

To be formed by volunteer enlistments.

Companies of light infantry grenadiers and riflemen to be raised.

A A A

nex to each battalion a light company, to be formed of young men, from the age of eighteen to twenty-eight years, whose ability and domestic circumstances will admit of a frequency of training, and who will be in a state of readiness in all cases of emergency, not practicable or convenient for the militia in general, and their returning to the main body, on their arrival at the latter period, will be giving thereto a military pride and experience from which the best of consequences must result; *Therefore it is enacted*, That the Governor shall appoint and commission one captain, one lieutenant, and one ensign, to each battalion; and the said company shall be distinguished by the denomination of grenadier, light infantry, or rifle men, at the discretion of the commanding officer of the brigade. Every person belonging to the said light companies, shall wear, while on duty, such caps and uniforms, as the field officers of the regiment shall direct, to be purchased by such companies at their own expense. And the officers of such light companies shall after qualifying in the manner hereafter directed, proceed to raise their companies, by voluntary enlistments, any where within the bounds of the battalions, to which they may be attached, of young men, as before directed; and as the men of such light com-

**By voluntary
enlistment.**

**At the age
of 28 to be
enrolled in
the district
companies.**

panies, shall, from time to time arrive at the age of twenty eight years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the district company they may respectively live in, and the deficiency shall be supplied by a new enlistment. The companies shall, in all respects, be subject to the same regulations and orders as the rest of the militia, except as is hereinafter excepted.

Sec. 7. The commanding officers of regiments, battalions, and companies, in each county, shall, on the first day of May next, meet at their respective court houses, there to divide the counties into districts, for the purpose of forming the regiments, battalions and companies, by this act established, which district so laid off, shall be designated by certain lines and bounds, to be by them established, and which shall be recorded by the Judge Advocate, as Clerk of each regiment: *Provided always*, That if emigration, into any of the company districts, shall render it necessary to form new districts, so as to affix to each district, its proper number of effective militia, it shall be the duty of the captain of each company, which shall have increased above the proper number, to notify the

**Counties in
what manner
divided into
districts.**

**When new
districts shall
be formed.**

**Manner
thereof.**

commandant of the battalion, to which such company belongs, thereof; who shall give the like information to the commandant of his regiment, whose duty it shall be to cause a meeting of the commanding officers of the companies of such battalion, or regiment (as the case may be) from which such new company is to be taken, at the most convenient place in the battalion, or regiment, as soon as may be; and the officers so met, shall proceed to divide such district, in case it contains a sufficient number of effective men, so as to form two companies, or otherwise to take from the several adjoining districts, such parts as they can spare, without reducing the original company, or companies, below their proper quota, and thereof form one new company.

**Requisites to
a command.**

Sec. 8. No person shall be eligible to a command in the militia, who is not a citizen of the United States, and has not resided twelve months in this territory.

**Commissioned officers
to take oath.**

Sec. 9. Every officer commissioned by virtue of this act, shall, previous to his entering on the duties of his respective office, take the oath of allegiance to the United States, and the following oath or affirmation, to wit:

"I do solemnly swear (or affirm as the case may be) that I will faithfully and justly execute the duties of a in the militia of the territory, according to the best of my abilities -- so help me God. **form thereof**

Which oath or affirmation, shall be endorsed on the back of the commission by the person administering the same.

Sec. 10. All commissioned officers shall take according to the date of their commissions, and when two or more of the same grade be of equal date, then their rank to be determined by lot to be drawn by them before the commanding officer of the brigade, regiment, battalion, company, or detachment. **Rank of officers how determined.**

Sec. 11. Each battalion, & regiment, shall be provided with regimental standards, with the number of the regiment inscribed on the same, by the field officers; and each company with the regimental colours, with the number of the company in such regiment inscribed thereon; a drum and fife, by the commissioned officers of the company, in such manner as shall hereinafter be directed. **Standard colours and music, how provided.**

Sec. 12. There shall be an adjutant general appointed in the Territory,

**Ad. gen. his
duty.**

whose duty it shall be to distribute all orders from the commander in chief of the Territory, to the several corps; to attend all public reviews, when the commander in chief shall review the militia, or any part thereof; to obey all orders from him, relative to carrying into execution, and perfecting the system of military discipline, established by this act; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the Territory, returns of the militia, under their commands, reporting the actual situation of the arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make in the usual manner, so that the said adjutant general may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same immediately before the commander in chief of the Territory; *Provided always*, That the adjutant general of the militia of this Territory, shall be, ex officio, inspector general of the same.

* Sec. 13. It shall be the duty of the brigade inspector to attend all musters of officers, within his brigade, to exercise and examine them; to note delinquencies, and return the same, forthwith to the lieutenant colonel of the regiment to which they belong; to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms to inspect their arms, ammunition, cloathing and accoutrements; superintend their exercise, and manoeuvres, and introduce the system of military discipline, pointed out in the twenty fifth article for the government of the militia, described throughout the brigade agreeable to law and such orders as they shall from time to time, receive from the commander in chief of the territory, or the commander of the brigade, for the time being; to make returns to the adjutant general of the territory, twice in every year, the first on or before the first day of August, and the second on or before the first day of December, of all the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements,

**Brig. inspr.
his duty.**

* *By act December 26th, 1812, The duties of Brigade Major and Inspector are to be discharged by the Adjutant General.*

cloathing and ammunition of the several corps, and every other thing, which in his judgment may relate to their government, and the general advancement of good order and military discipline.

**Officers to
meet and ex-
ercise.**

Sec. 14. And whereas it will be productive of very considerable advantages to the disciplining of the militia to have frequent meetings of the commissioned and non-commissioned officers of each regiment, or battalion, *It is therefore hereby enacted,* That the commissioned and non commissioned officers of each regiment, or battalion, at the discretion of the colonel of each regiment shall meet at some convenient place as near as may be, in the center of each battalion or regiment, to be pointed out by the colonel thereof, as often as he may think expedient, not exceeding six days in every year, for the purpose of being trained and instructed by the brigade inspector, for the space of five hours each day.

**Cpts. to
appoint ser-
geants.**

Sec. 15. It shall be the duty of each captain after having enrolled his company as directed by this law, to appoint four persons to his company as sergeants, giving each his rank of first, second, third, and fourth sergeant, and also four persons as corporals, giving to each his rank of first, second, third and

fourth corporal, giving his company notice thereof, and shall report the said appointments to the commandant of the regiment, who shall thereupon make out his warrants to such non-commissioned officers accordingly, and they are to be obeyed and respected as such; and if any person or persons, on receiving due notice of any such appointment, shall refuse to perform the duties of the office to which he or they are appointed, such person or persons shall be returned to the next court of enquiry, by his or their captain, to be fined as this law directs.

Persons refusing to serve fined.

Sec. 16. It shall be the duty of the commanding officers of each and every company so enrolled, forthwith to divide his company into divisions by ballot, from one to eight, for the purpose of a regular routine of duty, when called into actual service, and shall return a roster of such division, with the rotative number attached to each class within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commandant of the regiment who shall order

Captains to divide co's.

Note Adjutant General is bound to attend only two days by act Dec. 1st 1813.

B B B

the same to be recorded by the judge advocate as clerk thereof.

Persons moving from 1 Co. to another, what necessary.

Sec. 17. Every militia man removing out of the bounds of one company to another, shall apply to the commanding officer of the company he is removing from, who shall give him a discharge, certifying the class to which he belongs which certificate the said militia man shall produce to the captain or commanding officer of the company in the district in which he shall next settle, within ten days after his settlement; & the said captain or commanding officer is hereby required to enroll him in the class specified in said certificate; and on failure of any militia man, obtaining a certificate in manner aforesaid, & presenting the same as before directed, the captain or commanding officer of the company to which he shall remove, is hereby required to enrol such delinquent the foremost in the first class for duty, notifying him thereof, and that he must hold himself in readiness to perform any duty by this act required.

Co. musters, how often to be holden.

Sec. 18. There shall be private musters of each company of cavalry, artillery, grenadiers, light infantry and riflemen, once in every two months, at such time and place as the commandant thereof shall ap-

point, except in the months of December, January, February and March, in every year; and every other company formed by virtue of this act, once in every two months except, as before excepted, to be appointed by the commanding officer thereof, at, or as near as may be, the centre of the company district; there shall be a muster of each battalion in the month of April in every year, which shall be appointed by the commanding officers of the respective regiments, who shall fix on the most suitable place, as near as may be to the centre of the battalion district, and shall superintend the exercise, and direct the evolutions that shall be performed; and there shall be a muster of each regiment in the month of October, in every year, which shall be appointed by the brigadier general or commanding officer of the brigade to which such regiment belongs, at, or as near as may be, to the centre of the regimental district, and shall be made under the superintendence and direction of the brigadier general or commander of the regiment; which company, battalion and regimental muster, shall continue one day each, and no longer.

**Battalion
musters**

**Regimental
musters.**

Sec. 19. The brigadier generals, or commanding officers of brigades, shall cause notice in writing of the times and

**Notice of
musters when
& how given**

places of the said musters, to be given to the commanding officers of regiments, at least twenty-five days; the commanding officers of regiments, shall give notice of the regimental and battalion musters, to the commanding officers of the battalions at least twenty days; the commanding officers of battalions shall give notice to the regimental and battalion musters to the commanding officer of companies at least fifteen days; and the captains or commanding officers of companies shall give notice of the regimental, battalion and private musters to the individuals of their respective companies, by themselves or sergeants, at least five days before such regimental, battalion or company muster, (as the case may be) shall be holden; the notices to be given by the commanding officers of brigades, regiments and battalions, shall be in writing, and delivered to the person or persons, or left at the usual place of his, or their abode, by such commanding officers, themselves, or such other officer, or officers as they may think fit to order: and the commanding officers of companies, shall have power to assign to each sergeant of their respective companies, his due proportion thereof, whose duty it shall be to give the notice before directed to that portion of the company to him assigned, which may be done by

personal summons or by leaving notices in writing at the usual place of abode of the person so to be notified.

Sec. 20. The militia of the Territory shall be divided into divisions and brigades, at the discretion of the commander in chief of the militia.

Divisions & brigades how made and officer'd.

Sec. 21. Every officer & soldier shall appear, at his respective muster field, on the day appointed by eleven o'clock; and at every muster, each captain, or commanding officer of a company, shall direct the first sergeant of his company, in his presence to call the roll, at half past eleven o'clock precisely, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof as well as of the strength of the company, number of rifles, muskets, bayonets, fusees &c. on parade, to the commanding officer of his battalion, within ten days after any such regimental, battalion, or company muster; and every commanding officer of a battalion shall, at his regimental or battalion muster, (as the case may be) at the hour on which the battalion is to be formed, in like manner, proceed to call the names of the commissioned officers of his battalion, examine and note down all delinquencies, and make return thereof

Hour of muster.

Of roll calls

Delinquents how noted & returned.

Roll of commissioned officers when called.

together with those reported from commanding officers of companies, to the commanding officers of the regiment, to which he belongs, within fifteen days next succeeding such battalion or regimental muster, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance, and determine on them, and to each of the said returns shall be annexed the following certificate, to wit:

**Certificates
to accompany
returns.**

"I do certify, that the returns hereunto annexed, contain all the delinquences which have occurred in my company, (or battalion as the case may be) since my last return."

And to the battalion returns shall be added.

"And that the reports which accompany them, are all which have been made by the commanding officers of companies within my battalion.

**Adjutants to
make returns
&c.**

Sec. 22. The commanding officers of each regiment, within twenty days next after a muster of his regiment, or of the battalions of the same, shall cause the adjutant of his regiment to make out a complete return of the same, (agreeably to such forms as shall be fur-

nished by the adjutant general, noting particularly its strength, and number of arms) to the inspector of the brigade.

Sec. 23. The commissioned officers of the first battalion in each regiment, shall meet on the second Tuesday; and the commissioned officers of the second battalion of each regiment shall meet on the second Thursday, next after each regimental or battalion muster, as near as may be in the centre of the battalion, to be appointed by the lieutenant colonel, at the battalion or regimental muster; and public notice thereof given, to the battalion or battalions, whilst on parade; a majority of whom shall form a court of enquiry and assessment of fines; and it shall be the duty of the lieutenant colonel commanding, to preside at such board, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the board to him, to wit;

**Courts of
enquiry and
assessment
how formed.**

"I do solemnly swear or (affirm as the case may be) that I will truly and faithfully enquire into all delinquencies which appear on the returns

**Form of the
oath.**

to be laid before me, and will assess the fines thereon, as shall seem just, without partiality, favour or affection, so help me God."

**Delinquencies by whom
laid before**

The lieutenant colonel commandant or commanding officer of the regiment shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Sec. 24. And for enforcing obedience to this act, the following forfeitures and penalties shall be incurred for delinquencies, to wit:

By a colonel.

By a lieutenant colonel commandant, or commanding officer of a regiment, for failing to take any oath, to direct his adjutant to summons any court or board, to deliver any commission or commissions, to appoint a regimental or battalion muster, to give information of the places of holding courts of enquiries, to attend the same, to report delinquencies, to attend a battalion or regimental muster, or a muster of officers, to appoint the staff officers to his regiment, not less than ten, nor more than one hundred dollars.

By a major, or commanding officer of a battalion, for failing to take an

oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine and train his battalion, to report delinquencies, to make a return, or to attend a muster of officers, he shall forfeit and pay any sum not less than eight, nor more than eighty dollars.

Major.

By a captain or commanding officer of a company as the case may be, for failing to take an oath, to attend any court or board to enrol his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to examine and exercise his company, as is by the twenty fifth article directed for the government of the militia, to call his roll, and report delinquencies, to make any return, or appoint non commissioned officers as directed by this act, he shall forfeit and pay any sum not exceeding fifty nor less than five dollars:

Captain.

For every such offence by a subaltern officer, for failing to take an oath, to attend any court or board, to attend any muster armed, as is by this act directed, for every such offence or neglect, he shall forfeit and pay any sum not exceeding forty, nor less than four dollars.

Subaltern

C c c

By a non-commissioned officer for failing or neglecting to attend any muster of officers, to attend any muster of his company, to serve if appointed as a non-commissioned officer for the term of one year, to take charge of any part of his company, or march them as directed, for every such offence or neglect, he shall forfeit and pay any sum not exceeding twenty, nor less than two dollars.

Private.

By a private man for failing or neglecting to attend a regimental or battalion muster, armed and equipped as directed by law, shall forfeit and pay any sum not exceeding six dollars, nor less than one dollar and fifty cents; to attend a muster of his company at the time and place appointed in manner aforesaid, during the whole time the same is on parade, any sum not exceeding three dollars, nor less than one dollar.

Fines on persons under 21 by whom paid.

Sec. 25. The fathers shall be bound for the payment of fines, incurred by their sons under the age of twenty one; guardians for the payment of fines incurred by their wards, and masters for the payment of fines incurred by their apprentices, and be charged therewith by the collectors of fines accordingly.

Sec. 26. Any court of enquiry for good cause shewn, may remit fines assessed by the court preceding the same, and in such case, it shall be the duty of the judge advocate as clerk, to certify the same to the collector of fines, who shall thereupon not collect such fine or fines, or refund the same if collected.

**How fines
may be re-
mitted.**

Sec. 27. All fines to be assessed by virtue of this act, shall be collected by the provost martial of each regiment, who shall exercise the duties of collector thereof; and it shall be the duty of the president of the court martial, which hears and determines upon the fines and forfeitures which may accrue under this act, to deliver to the provost martial, as collector as aforesaid, a certified list of all the delinquencies therein, on or before the first day of January in every year, and take his receipt therefor ; which shall be lodged by the said provost martial in the office of the sheriff of the county, as treasurer thereof, within twenty days after he received the same, taking his receipt therefor ; and he shall deliver within ten days after receiving the sheriff's receipt, a duplicate thereof to the lieutenant colonel of his regiment; and the provost martial, as collector as aforesaid, shall collect and account for

**By whom &
in what man-
ner collected.**

all fines, placed in his hands as aforesaid, on or before the first day of November in the same year; and on failure, the sheriff of the county, on giving him twenty days previous notice, shall obtain judgment and execution for the same with costs, and ten percentum interest on the amount, from the time the same became due; and should any person so charged with fines, fail to make payment on or before the fifteenth day of June in any year, the provost martial collector as aforesaid, is hereby authorised and required, by warrant of the president of the court martial, which he is hereby authorised to issue, to make distress and sale therefor, in the same manner as is directed in the collection of taxes: *Provided always*, That any provost martial, collector, shall be credited by his list of delinquents, and insolvents to be first examined by the court or courts of enquiry within his county.

**How fines
shall be ap-
propriated.**

Sec. 28. All monies paid into the sheriff's hands, as treasurer, in manner aforesaid, shall be appropriated, first, to the purpose of procuring the necessary number of drums, fifes and colours, and secondly, the remainder, if any, to pay the different officers, directed to be paid by this law, subject to the orders

of the courts of enquiry, countersigned by the lieutenant colonel.

Sec. 29. If any militia man shall make it appear to the satisfaction of the officers of the company to which he belongs, that he is unable to furnish or equip himself, as by this law is directed, and the said officers satisfying the succeeding court of enquiry thereof it shall be in the power of such court, to remit any fine that may have been imposed by virtue of this law, and to grant such militia man exemption from such fines, until he shall be enabled, in the opinion of the officers of his company, to furnish and equip himself agreeably to this law.

persons unable to equip according to law &c.

Sec. 30. If any bystander at a regimental, battalion or company muster, shall insult or otherwise molest, any officer or soldier whilst on parade, the commanding officer of the regiment, battalion, troop, or company, as the case may be, may order such person or persons to be put under guard, for any time not exceeding six hours, and to pay a fine not exceeding four dollars, which shall be collected as other militia fines are.

Bystanders on parade insulting an officer or soldier how to be proceeded with.

Sec. 31. Whenever it may be necessary to call into actual service, any part

Gov. empowered to call forth the militia.

Not to exceed 4 classes at one time.

Gov. to forward his orders to the brigadier general.

Brig. gen. failing in his duty.

of the militia, on an actual or threatened invasion of this Territory, or of any of the neighboring states, it shall and may be lawful for the Governor to order into actual service such part of the militia, by classes, as the exigency may require: *Provided*, That the part so called doth not exceed four classes of the militia of the brigade or brigades so called out: *And provided also*, That such brigade or brigades shall not be again called into actual service, until an equal number of classes of the militia of the other brigade or brigades, respectively, be first called; unless the danger of an invasion from the Indians or others should make it necessary to keep in reserve the militia of such brigade or brigades for their immediate defence.

Sec. 32. All orders for the militia to be called forth as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and rank of officers, and if any brigadier general shall fail herein, or fail or neglect to comply with any of the duties of him required by virtue of this act, he shall forfeit and pay any sum not

exceeding one thousand dollars, to be assessed by a general court martial.

Sec. 33. Each battalion, or regiment of the territory shall be divided into eight classes, (preserving to each man his original class) all troops of horse, and flank companies, whether grenadiers, light infantry, or rifle men, shall be called into service by companies, or detachments, and not by classes, and the first flank company shall make part of the first call, and the second flank company shall make part of the fifth call of the militia, and be commanded by their own proper officers.

**Militia how
to be classed.**

Sec. 34. To the end the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined, that is to say:

For the 1st draft, the 1st ct 2d lt & 2th en.

2d do	2d do	1st do	3d do
3d do	3d do	4th do	2d do
4th do	4th do	3d do	1st do
5th do	5th do	6th do	8th do
6th do	6th do	5th do	7th do
7th do	7th do	8 h do	6th do
8th do	8th do	7th do	5th do

**The order of
staffing com-
missioned of-
ficers.**

Non-commissioned officers to take tour of duty with the commissioned officers, and the routine of the field offi-

**Field officers
routine of
command
&c.**

**Term of ser-
vice and how
relieved.**

**When the
militia may
be called in
to service o-
ther than by
classes.**

**Capt's. their
duty when
the militia
are called in
to service.**

cers shall be according to the date of their respective commissions; the first colonel of the brigade shall command the first detachment, if it amounts to a colonel's command, if it does not, the command shall devolve on the first major, liable to serve three months & no longer; and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the Governor, or any commanding officer of a coun y, from employing, or calling out a part or the whole of any class, or any companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the militia, which compose the particular classes, and the service of the persons so called out, shall be accounted as a part of their tour of duty.

Sec. 35. When any detachment of the militia shall be called into service, the captain of each company shall take care that his proportion of men are assembled, and marched to the proper place of parade or rendezvous, under the care of a commissioned officer or sergeant, with a list of the men; which list shall be delivered to the adjutant of the regiment, whose duty it shall be to

attend at the place appointed, to receive the detachment from the several companies of his regiment; and he shall make out a roll of the whole, mentioning the rank of the officers, and names of the non-commissioned officers and privates; and when the detachment shall be completed, and placed under the proper officer, he shall attend them to the place appointed for the meeting of the detachment of the brigade, when the several adjutants shall deliver to the brigade major, or inspector, or officer appointed to command the whole detachment, a complete roll containing the names of the commissioned, and non-commissioned officers and privates, composing the detachment from each regiment, or battalion, noting such remarks as circumstances may require; and it shall be the duty of the officer appointed to the command of said detachment, to cause two complete rolls to be made out and certified under his hand, one of which rolls he shall forthwith transmit to the adjutant general and the other to the brigade inspector.

Adjutant his duty.

Officer commanding a detachment his duty.

Sec. 36. It shall and may be lawful for any person called to do a tour of duty, to send a sufficient substitute, such substitute being approved of by the cap-

When a person called out may send substitute.

D D D

Condition thereof.

tain or commanding officer of the company, which he shall be offered to serve in: *Provided always*, That persons serving by substitute as aforesaid, if substitute be called in his own turn, into actual service, before the time expires which he was to serve for his employer, that then the person procuring such substitute, shall march or find a person to march in his substitute's turn, (to be accepted as aforesaid,) or be liable to pay his fine for neglect, which fine is to be recovered in the same manner as is directed in the case of any militia man neglecting or refusing to do a tour of duty, and that sons, who are not subject to the militia law, may be admitted as substitutes for their fathers, to be accepted as aforesaid.

When impressment of articles may be made.

Sec. 37. The lieutenant colonel of each regiment, from which detachments are drawn shall, if not otherwise to be obtained, cause to be procured by impressment, for each company, a wagon, team, and driver, or a sufficient number of pack horses, six axes, and six camp kettles, or pots of convenient size; all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over; and the articles aforesaid, shall be returned to the owner, who shall be allowed for the use,

damage and detention, of the same, whatever shall be adjudged by a court of enquiry of the regiment; and to the end, that if any articles impressed be lost, the owner may be paid for the same; the lieutenant colonel shall cause all property by him impressed, by virtue of this act, to be valued by three householders, or any two of them on oath, before the same shall be sent away; shall give such owner a receipt for the same, stating the quantity, quality and value of the property impressed, together with a certificate of the appraisers; and upon proof being made of any article being lost, the valuation thereof shall be allowed, and the said allowance shall be certified to the auditor of public accounts: the said court shall make enquiry into the cause of such loss, and if it shall appear that such loss was occasioned by the misconduct or inattention of any officer, the brigade inspector is hereby authorised, and required, to prosecute a suit against such officer, to recover damages for the use of the Territory.

**When lost
&c. indemnification to be made to the owners.**

Sec. 38. If any sudden invasion shall be made, or threatened to be made, into any county or district within this Territory, by Indians, or any other power, the commanding officer of the militia of such county or district, is hereby author-

Commanding officer of a county upon actual or threatened invasion how to proceed.

ised and required, to order out the whole, or such part of the militia of his county or district, as he may think necessary, in such manner as he may think best for the repelling such invasion; and shall call on the commanding officers of the adjacent counties or districts for such aid as he may conceive necessary, who shall forthwith in like manner, furnish the same, and for assembling the militia required upon such occasions, or by order of the executive, the same measures shall be taken to summons them as is directed in the case of musters and it shall be the duty of every commanding officer of a county or district, on receiving information of the intended invasion of his, or any neighbouring county or district, forthwith to convey information of the same by special messenger or otherwise, to the governor of the territory for the time being, that he may make the necessary arrangements to repel the same.

Persons prosecuted under this law how plead.

Sec. 39. If any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the actions shall be laid in the county where the cause of such action did arise, and not elsewhere; and the defendant or defendants, in such action or actions to be brought, may plead the general issue, and give

this act and the special matter in evidence; and in case the plaintiff or plaintiffs, in any such action, shall fail in supporting the same, he, she or they, so failing, shall pay to the defendant or defendants, in every such action double costs.

**Pitff. failing
to pay dou-
ble costs.**

Sec. 40. The following articles, rules and regulations shall govern the militia of this territory, to wit:

Articles.

Art. 1.—If any field, or other commissioned officer, at any regimental review, or on any other occasion, when the regiment, battalion or company to which he may belong, or in which he may hold a command, is paraded in arms, shall misbehave or demean himself in an unofficer like manner, he shall for such offence be cashiered, or punished by fine, at the discretion of a general court martial as the case may require, in any sum not exceeding sixty dollars:

**Commission-
ed officers
for misbeha-
vior how pu-
nished.**

And if any non-commissioned officer or private, shall on any occasion of parading the company to which he belongs, be drunk or shall disobey orders, or shall use any reproachful or abusive language to his officers, or any of them, or shall quarrel or promote any quarrel among his fellow soldiers, he shall

**Non-com-
missioned of-
ficers and
privates
misbehaving
&c.**

be disarmed and put under guard by the commanding officer, or officers present, until the company is dismissed, and shall be by a regimental court martial fined not more than twenty dollars, nor less than one dollar.

**lieut. col.
refusing to
give orders
&c.**

**How punish-
ed.**

Art. 2.—If the lieutenant colonel or commanding officer of any regiment or battalion, shall neglect or refuse to give orders for assembling his regiment or battalion, at the direction of the commander of the brigade to which he belongs, or in case of an invasion of the county or district to which such regiment or battalion belongs, he shall be cashiered and punished by fine not exceeding six hundred dollars, at the discretion of a general court martial:

**Capt. refu-
sing &c.**

**How punish-
ed.**

And if a commissioned officer of any company, shall on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered and punished by fine not exceeding two hundred dollars, at the discretion of a brigade or general court martial:

**Non-com-
missioned
officers &c.**

And a non-commissioned officer offending in such case shall be fined at the

discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Art. 3.—If any captain or commanding officer of a company, shall refuse or neglect to make out a list of the persons, noticed to perform any tour of duty, and send or convey the same to the lieutenant colonel, or commanding officer of the regiment, to which such company may belong, or if he shall fail to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor on an invasion or insurrection in the county or district, or requisition from an adjacent county or district, or failing on any such occasion to repair to the place of rendezvous; for such neglect or refusal he shall be cashiered, or fined at the discretion of a general court martial, in any sum not exceeding one hundred dollars nor less than five dollars.

**Penalty
capt. for ne-
glecting of du-
ty**

Art. 4.—If any militia man shall desert while he is on a tour of duty, he shall be fined not exceeding fifty dollars, and be obliged to march on the next tour of duty, under the same penalties as the first.

**Desertion
punished.**

If a non-commissioned officer shall so desert, he shall be degraded and placed

in the ranks, and shall pay a fine not exceeding seventy-five dollars, and be obliged to serve another tour as a private.

Genl. court martial.

Art. 5.—Every general court martial, shall consist of thirteen members exclusive of a judge advocate, all of whom shall be commissioned officers, not under the rank of captain, and the officer highest in rank shall preside.

Regmtl. court martial.

Art. 6.—Every regimental court martial, shall be composed of five members, all commissioned officers, one of their number a president, not under the rank of a captain.

Members to vote &c.

Art. 7.—All members of a court martial are to behave with decency and calmness, and in giving their votes are to begin with the youngest in commission.

Officers how tried.

Art. 8.—No officer shall be tried but by a general court martial, nor by officers of an inferior rank, if it can be avoided, nor shall any proceedings or trials be carried on except between the hours of eight o'clock in the morning and three o'clock in the afternoon, excepting in cases which in the opinion of the officer appointing the court requires an immediate example.

Art. 9.—The judge advocate shall prosecute in the name of the Territory, but shall so far consider himself as counsel for the prisoner, as to object to any leading question, to any witness, or any question to the prisoner, the answer to which might lead to criminate himself.

**Judge adv
how to pro-
secute.**

Art. 10.—When a non-commissioned officer, or private is confined under guard, his crime shall be lodged with the officer of the guard, within twelve hours after the prisoner's confinement, otherwise the prisoner shall be set at liberty.

**Persons un-
der guard.**

Art. 11.—In every court martial not less than two thirds of the members must agree in every sentence, for inflicting any punishment, otherwise the person charged shall be acquitted.

**Of court
martial &c.**

Art. 12.—The president of each and every court martial, whether general or regimental, shall require all witnesses in order to the trial of offenders, to declare on oath, or affirmation, that the evidence they shall give, is the truth, the whole truth, and nothing but the truth, and the members of all such

**Members of
a court mar-
tial to take
an oath.**

E E E

courts, shall take an oath or affirmation as follows, to wit:

"I do solemnly swear, or affirm, as the case may be, that I will hear and determine according to evidence, to the best of my understanding, and the custom of war in like cases, between the Indiana Territory, and now to be tried, and that I will not disclose the opinion of this court, until approved or disapproved by the commanding officer, or commander in chief, as the case may be, and that I will not at any time discover or disclose the opinion of any particular member unless called upon to give evidence thereof by a court of justice, in due course of law."

By whom administered.

Which oath shall be administered by the judge advocate to the president and members.

Judge adv. to take an oath.

Art. 13.—The judge advocate shall be appointed by the commandant of each regiment, who shall hold his appointment during the pleasure of the said commandant, and shall take the following oath, or affirmation, which shall be administered by the court martial, to wit:

"I do swear, or affirm, as the case may be, that I will faithful-

ly execute the office of judge advocate to this court now met for the trial of to the best of my abilities and understanding, and the custom of war in like cases, and that I will not disclose nor discover the opinion of this court martial, until approval or disapproval of by the commanding officer, and that I will not at any time disclose or discover the vote or opinion of any member, unless called upon by a court of justice to give evidence thereof in due course of law."

It shall be the duty of the judge advocate, to prosecute for the territory, and to keep a record of the whole proceedings of the court, taking into view the depositions of witnesses that may be introduced; and he shall also exercise the duties of Clerk to the regiment.

His duty.

Art. 14.—The commandant of each regiment shall appoint a provost martial for his regiment, who shall hold his appointment during the pleasure of said commandant; It shall be his duty to summon all witnesses, having received process for that purpose from the president of courts martial; to execute the orders of the court, and keep bystanders from interrupting the court, while sitting, and he shall exercise the

Provost martial his duty.

duties of collector of fines and forfeitures.

The judge advocate and provost martial, shall be allowed such compensation as the court martial may direct, to be paid out of the fines; and it shall be their duty to attend any court of enquiry, or court martial, when thereto required, by the commandant of their regiment.

Witness refusing to attend how punished.

And all persons called as witnesses, in any case before a court martial, who shall refuse to attend and give evidence, shall be censured, or fined, at the discretion of the court, in any sum not exceeding fifty dollars.

Officers transgressing rules &c.

Art. 15. — No officer or private, being charged with transgressing these rules, shall be suffered to do duty in a regiment, company or troop, to which he belongs, until he has had his trial by a court martial, and every person so charged, shall be tried as soon as a court martial can conveniently be assembled.

Col. injuring a non-commissioned officer or private what proceedings thereon &c.

Art. 16. — If any non-commissioned officer or private, shall think himself injured by his lieutenant colonel, or the commanding officer of the regiment, and shall upon due application made to him, be refused redress, he may com-

plain to the brigadier, who shall direct the commissioned officers to enquire into the nature of the complaint; and if they report that the person complaining in their opinion, has been injured, the brigadier general shall then direct the brigade inspector, at a certain time and place to summons a general court martial, for the purpose of doing justice to the person complaining; and shall also direct the brigade inspector, to give the person complained of, at least eight days previous notice of the time and place of the meeting of any such court martial.

Art. 17. — If any non-commissioned officer or private, shall think himself aggrieved by his captain, or other superior in the battalion, troop or company, to which he belongs, he may complain to the commanding officer of the regiment, who shall cause his adjutant to summons a regimental court martial, for doing justice according to the nature of the case.

**If by a capt.
how to proceed.**

Art. 18. — The party tried by any general court martial, shall be entitled to a copy of the sentence, and proceedings of such court martial, after the decision on the sentence, upon demand thereof made by himself, or by any other person or persons in his behalf, whe-

**The person
tried entitled
to a copy of
sent.**

ther such sentence be approved of, or not.

**Court martial
its power**

Art. 19. — No penalty shall be inflicted at the discretion of a court martial, other than degrading, cashiering or fining.

**Of pardon &
mitigation of
fines &c.**

Art. 20. — The commanding officer for the time being, shall have full power of pardoning, or mitigating any censures or penalties so ordered to be inflicted, on any private or non-commissioned officer, for the breach of any of these articles, by a general court martial; and every offender convicted as aforesaid, by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel, or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by an officer, or private, from another; but in case of officers, such sentence to be approved of by the commander in chief of the militia, who is empowered to pardon or mitigate such sentence, or disapprove of the same.

**Commissioned officers
misbehaving
&c. how proceeded a-
gainst &c.**

Art. 21. — If any commissioned officer, shall at any time or upon any occasion, behave in an unofficer-like, ungentlemanly, or disgraceful manner,

the commander in chief, if the person accused be a major general; the general of division, if a brigadier general; the brigadier, if a field officer; or the lieutenant colonel, or commanding officer of a regiment, if an inferior officer as the case may be, upon the application of a commissioned officer, may appoint a board of three officers, to enquire into the matter of complaint, and if upon their report it shall appear to him deserving of trial, then and in such case, he shall direct a court martial, whose proceedings herein, shall have the same effect as if the offence had been committed when on actual duty.

Art. 22. — The militia on the days of training, may be detained under arms, on duty in the field, any time, not exceeding six hours: *Provided*, They are not kept above three hours under arms at any one time, without being allowed to refresh themselves.

Hours of parade.

Art. 23. — All fines that shall be incurred by any of these rules, shall be paid to the Sheriff as Treasurer of the county, in which the offender resides, (whose receipt shall be a discharge for the same) within sixty days after they become due, but in case of neglect or refusal to pay any of the said fines, they

Fines to whom paid

shall be levied and collected in manner herein before directed.

**Militia when
called into
actual serv.**

Art. 24. — The militia of this territory whilst in actual service, shall be subject to the same rules and regulations as the federal army; and shall receive the same pay and rations as is allowed by the United States, to the militia when in actual service: *Provided*, That upon any transgression or offence of a militia man whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this territory, if the same can be convened.

**Rules of dis-
cipline estab-
lished by con-
gress to be
observed &c.**

Art. 25. — The rules of discipline approved and established by congress in their resolution of the twenty-ninth of March one thousand seven hundred and seventy-nine, shall be observed by the militia throughout this territory, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances: it shall be the duty of every commanding officer at every training whether by regiment, battalion or single company to cause the militia to be exercised and trained agreeably to the said rules, and the instructions laid down by the baron Steu-

ben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, non-commissioned officers and privates, are recommended and enjoined upon the militia of this territory, as particularly and fully as if the said instructions were repeated and expressed in this act at length; and it shall be the duty of every captain to instruct his non-commissioned officers accordingly.

Baron Steuben's instructions, &c.

Art. 26 — If any militia man, on receiving three days previous notice thereof, shall neglect or refuse to be in readiness to march on any tour of duty, armed, clothed, and equipped, as required by this act, he shall forfeit and pay a sum not more than one hundred dollars, nor less than eight dollars, for every month he is required by law to serve on such tour, to be assessed (on proper proof thereof made) by a regimental court martial: *Provided always*, That if any militia man shall be sick, or make any other just or satisfactory excuse to the court martial; such fine shall not be assessed but such militia man shall be obliged to perform a tour of duty, on the next call of the militia.

On a call for a tour of duty what notice &c.

Art. 27. — The foregoing articles shall be read at all regimental and bat-

Articles to read.

F F F

talion musters by order of the commanding officer.

A L A W

Concerning the Militia adopted from the militia law of South Carolina.

Passed the 17 of June 1811.

Officers to reside within their commands.

Brigadiers appoint their aids & brigade inspectors.

Regimental staff how appointed.

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same. That all officers shall reside within their respective commands and on their removal therefrom their commission shall be vacated, That all Brigadiers shall have the right to appoint their respective aids de-camp who shall have the rank of captain, and that they shall also have the right to appoint their respective brigade inspectors.

That the regimental staff shall be appointed by the Colonels respectively and be approved of by the brigadier and that all officers so to be nominated and appointed as aforesaid shall be commissioned by the governor.

That all fines shall be inflicted on non commissioned officers and privates by the

judgment of the majority of the commissioned officers of the company in which the offenders are enroled; all other laws within the purview of this law are hereby repealed.

Non-commissioned officers & privates punished by the officers of the company.

The foregoing is hereby declared to be a law of this territory and to take effect from the date thereof.

Take effect.

AN ACT

Supplemental to the several Laws concerning the Militia.

Passed December 25, 1812.

Sec. 1. Be it enacted, by the legislative council and house of representatives, and it is hereby enacted by the authority of the same, That the fines which may hereafter be assessed by the company officers of any militia company in this territory according to law, shall be collected by the constables of the townships in which said militia company may be or where the persons reside on which such fine shall be assessed, and it shall be the duty of the commanding officer of each company within three months after any fine shall be inflicted by the officers of the company to certi-

Fines assessed by Company officers to be collected by constable.

Duty of officers to certify fine.

Constables to account commanding officer of company in forty days.

How fines are to be appropriated.

fy the same and deliver to the constable a certificate thereof which said constable shall collect the amount thereof from the person on whom the said fines shall be inflicted in the same manner as if the same was an execution from a justice of the peace and shall pay the amount thereof to the commanding officer of the company within forty days after the same shall come to his hands and shall be allowed by such commanding officer ten per cent on the amount collected which said fines shall be appropriated towards furnishing colours and music for his company and other current expenses thereof.

AN ACT

To amend the Militia law of this Territory.

Passed Dec. 26 1812.

Be it enacted by the Legislative Council and House of Representatives & it is hereby enacted by the authority of the same, That the Brigade Major and Inspector shall not hereafter be required to attend any Battalion Muster, and that whenever a resignation of, or removal from the office of Adjutant General and Brigade Major and Inspector shall take place, the Governor of the

Territory shall have a right to appoint an Adjutant General who shall execute the duties of Brigade Inspector and Major as well as the duties of Adjutant General.

AN ACT

Supplemental to an act entitled "an act to amend the Militia law of this Territory".

Passed Dec. 1 1813.

Whereas it is incumbent on the Adjutant General hereafter to discharge the duties of the offices of Adjutant General and Brigade Major and Inspector and Whereas the attention to the discipline of the Militia in a republic is at all times highly important, but more especially in this Territory so vulnerable to sudden and unexpected invasions by a savage enemy living on its borders; and whereas in the discharge of the duties of those offices the Adjutant General will necessarily incur considerable expense and loss of time in recording and distributing the orders of the commander in chief and attending and inspecting the different Regiments in the territory therefore;

Preamble.

Compensation of adjutant general.

To be drawn upon certificate of govr.

The adjutant to prove that he has performed the duties how.

In case of partial failure what.

To attend two drill musters annually in each regiment.

Sec. 1. Be it enacted by the Legislative council and House of Representatives of the Illinois Territory, and it is hereby enacted by the authority of the same; that the Adjutant General shall receive an annual compensation of one hundred dollars out of the public Treasury for the services required of him by law; *Provided however* that the auditor of public accounts shall not draw any warrant in favor of the Adjutant General until he shall receive a certificate from the Governor that the said Adjutant General has faithfully discharged all the duties required of him by law; that said Adjutant General shall produce to the Governor a certificate from the commandant of each Regiment that he has performed all the duties required of him by law in his regiment and if it shall appear to the Governor from the returns made by the Adjutant General that he has failed in any part of his duty then and in that case the Governor shall only certify to the auditor for what part of the salary he may think him entitled to by the provisions of this act.

Sec. 2. Be it further enacted, That the Adjutant General as Brigade Major and inspector shall not hereafter be required to attend more than two days in any year in each Regiment, for the

purpose of superintending Regimental Drill Musters, any laws or parts of laws to the contrary notwithstanding. This act shall commence and be in force from and after the first day of January next.

AN ACT

Concerning the Militia.

Passed Dec. 14, 1814.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same, That whensoever any draft of the militia shall be ordered within any regiment, the governor of the territory is hereby empowered to direct that a court martial shall meet at the place which may be appointed, in said regiment for the rendezvous two days before the time appointed for such rendezvous, which said court shall set until the expiration of the day of rendezvous and shall have power to hear and determine upon all excuses, that may be made by any individual, within the two first days of its session for exemption from service; and in no instance shall any militiaman be ex-

**When a draft
is ordered the
govr. to di-
rect a court
martial.**

**To hear ex-
cuses.**

empted from service who shall not have made his application within the time before mentioned.

No excuse to be allowed unless a substantial one.

Sec. 2. Whereas many persons, with small hurts or injuries frequently avail themselves thereof to procure exemption from performing their tours of duty, though they be able to pursue their own private business, very expert with fire-arms in hunting and other amusements, and more able than many others to employ substitutes, it is hereby directed to be the duty of the aforesaid court martial to enquire diligently into those circumstances, and to refuse certificates of exemption to any person or persons, that said court may believe are able to do militia duty, notwithstanding such person or persons may labour under some partial disadvantages.

Persons failing or refusing to perform tour of duty court martial to give judgment for any sum not exceeding 60 dollars per month.

Sec. 3. Whenever any person shall fail or refuse to perform his tour of duty, without reasonable excuse, made within the time aforesaid, unless he shall be able to shew that he had a sufficient excuse, and that it was not in his power to attend within the time and at the place hereby required to make the same it shall be the duty of said court martial to give judgment against such delinquent in any sum not more than sixty dollars per month for the

time he may be required to serve, nor less than thirty dollars for each month: and it shall be the duty of the judge advocate to transmit a certified copy of all fines, thus assessed by any court martial, to the Sheriff of the county together with the warrant of said court and also a certified copy of said fine to the Auditor of public accounts, who shall charge the said sheriffs therewith, as in the case of territorial taxes, which said certificate shall be transmitted by the judge advocate to the Sheriff and Auditor within twenty days from the assessment of said fine and the sheriff shall collect the same within sixty days from the time he received the warrant of said court martial and pay the same into the public treasury giving ten days notice of the sale of the delinquents property; any judge advocate or sheriff failing to perform the duties herein required, shall forfeit and pay double the amount of the fine imposed by this law.

Judge advocate to furnish list of fines to the sheriff & send one to the Auditor who shall charge the sheriff with the amt.

Sheriff to collect them in 60 days.

Penalty on Judge advocate & sheriff.

Sec. 4. All and every officer who shall be appointed to compose any court martial and failing to do so shall pay the sum of (to wit) a captain (or any officer of higher grade) not more than fifty dollars nor less than ten dollars

Penalty on officers who fail to attend the court martial.

G G G

—All officers under the rank of captain failing as aforesaid shall for every such offence pay a sum not more than thirty dollars nor less than six dollars, to be recovered in the same manner as is hereinbefore directed.

**Adjutants
compensa-
tion for sum-
moning & at-
tending court
martial.**

Sec. 5. The adjutants shall for summoning & for attending any court martial as a compensation for his service herein, receive the sum of two dollars per day for each and every day's service, for which he shall obtain a certificate from the court martial to the auditor of public accounts, who shall give him a warrant to the territorial treasurer for the amount thereof; and all sheriffs for levying and collecting all and every fine imposed by this act shall be allowed the same compensation as for collecting the territorial tax.

**Sheriffs al-
lowance for
collecting
fines.**

**Compensation
to the judge
advocate.**

Sec. 6. The judge advocate for his services rendered at any court martial as aforesaid, shall receive the sum of three dollars for each day he may serve therein, who shall for his services aforesaid obtain from said court martial a certificate thereof to the auditor of public accounts, who is hereby required to give him a warrant to the territorial treasurer, for the same.

Sec. 7. The said court martial may

be adjourned from day to day until every case of delinquency shall have been decided, or may be convened at any time, by the Governor, for the purpose of deciding upon those cases of delinquency though no adjournment may have been entered on their proceedings.

**court martial
may adjourn
& convene**

Sec. 8. If the Governor of the Territory should be unable or should fail to require the attendance of a court martial as aforesaid, for the purposes aforesaid, the powers hereby given to him in that particular shall be exercised by the lieutenant colonel of the regiment, or the commanding officer of the detachment, in which a draft may be ordered.

**Governor
failing to
convene a
court mar-
tial the lieut.
colonel to do
it.**

Sec. 9. If any person drafted to perform a tour of duty shall be able within the time specified for that purpose to exhibit to the aforesaid court a reasonable ground for exempting such person from the performance of such tour, the court shall give to such person a certificate thereof, which shall be sufficient to exempt him from the tour for the time being.

**Court mar-
tial to give
certificate of
excuse.**

Sec. 10. If any person shall be legally drafted and notified to march and shall fail or refuse to do so (not having obtained a certificate of exemption from

**Drafted per-
sons failing
to march con-
sidered deser-
ters.**

The duty of militia officers to apprehend them.

the court aforesaid) such person shall be considered as a deserter, and it shall be lawful for any one, and shall be the particular duty of all militia officers to apprehend such person, and deliver him to any officer commanding in the detachment to which such deserter may belong.

Governor authorised to raise companies of mounted riflemen.

Sec. 11. The Governor of the Territory shall be and hereby is empowered to raise and organize as many companies of mounted riflemen in this territory as he may deem requisite for any service that is likely to be wanting. Any officer appointed to command in any one of those companies (they being intended only for temporary purposes) shall not lose thereby any appointment he may hold in the militia; such companies when raised and organised shall be subject to be called into service at any moment and shall continue in service three months after they shall reach the rendezvous, that shall be appointed for them; but if they or any one of them shall make a specific tender of their services for six months or any longer period, they or any one of them so tendering their services shall be liable when called upon to perform the tour of duty so stipulated; and any person enrolled in any one of said companies, who shall fail or refuse to per-

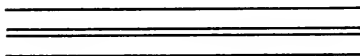
Officers not to lose their rank in the militia.

To continue in service 3 months.

May tender their services for a longer period & shall serve the time if required.

form the tour of duty required shall be subjected to the same punishment and subject to the same coercion in every respect whatsoever as is provided in this law againsts persons drafted and failing or refusing to perform their tour of duty.

**Penalty for
failing to
perform the
tour.**



MILLS AND MILLERS.

AN ACT

Regulating Grist Mills and Millers

Passed Sept. 17, 1807.

Sec. 1. Each and every miller or the owner or owners, or occupiers of every water and wind grist mill, now erected or which shall hereafter be built and erected, within this Territory, shall be entitled to have and receive out of the grain which may be ground in

**Toll allowed
for grinding
grain &c. in
water & wind
mills.**

his, her, or their said mills, the following rates of toll, in full compensation therefor, to wit; For grinding and bolting wheat or rye into flour, one tenth part thereof; For grinding Indian corn, oats, barley or Buckwheat, and the same bolting into flour when required to be bolted, one seventh part thereof; For grinding Indian corn, oats, barley or buckwheat, when the same is not required to be bolted, one eighth part thereof; For grinding malt and chopping rye, one twelfth part thereof.

**For grindin
in H. mill**

**Proviso.
Where own-
er of the
grain shall
find horses.**

Sec. 2. Each and every miller, or the owner or owners, or occupiers, of each and every horse mill, when the miller, owner or occupier thereof, shall find and provide horses for turning the same, shall be entitled to take and receive, out of wheat to be ground and bolted in his, her or their said mills, one fifth part thereof; out of rye, Indian corn, oats, barley and buckwheat, one fourth part thereof; out of malt and for chopping rye, one sixth part thereof; *Provided always*, That when the owner of the grain to be ground, shall provide horses to grind the same, the miller or owner or occupier of said horse mill shall be entitled to take and receive the same rate, as is provided and allowed to water and

wind mills in the first section of this act, and no more.

Sec. 3. If any miller or the owner or owners or occupiers, of any of the aforesaid described mills, within this Territory shall presume to demand, receive or take any greater toll, fee or reward, for grinding grain, or for grinding and bolting grain into flour than as aforesaid, or shall knowingly cause the same to be done, he, she, or they so offending, upon conviction thereof, before any justice of the peace of the proper county, in which the mill shall be erected, shall forfeit and pay the sum of five dollars, with costs, for the use of the county in which the offence shall have been committed, to be levied on the offender's goods and chattels; and for want of goods and chattels, the offender shall be committed to the jail of the county, until the same shall be paid, or the offender discharged by law; and moreover shall be liable to the action of the person injured, for damages.

Penalty for taking more than lawful toll

How recoverable

Sec. 4. Every miller the owner or owners or occupier of every grist mill of the aforesaid description, shall be accountable to the owners of grain received to grind, for the safe keeping of the same, whilst in his, her or their

Owners of mills to be accountable for grain &c

mills; and if any grain, bag, or cask containing the same, shall be lost or destroyed whilst intrusted in the care of any miller for the purpose of being ground, the owner or occupier, as the case may be, shall make good the same to the owner thereof in damages: *Provided always*, That in order to entitle any owner of grain so deposited and lost or destroyed, to recover the value thereof against the miller, owner or occupier of any of the above described mills; the owner of the grain shall cause the bag or bags, cask or casks, containing his, her or their grain to be distinctly marked with initial letters of his, her or their name or names.

**Provided the
bags etc are
marked**

Provided also, That nothing in this section shall be so construed as to charge any miller, owner or occupier of any mill, with the loss of grain, bags or casks, that shall happen by robbery, fire, or any other unavoidable accident, without the fault or neglect of such miller, owner or occupier thereof.

**Millers not
accountable
in case of
robbery, fire
etc**

Sec. 5. If any person owning lands on one side of a water course, the bed thereof belonging to himself, and desiring to build a water grist mill on such lands, and erect a dam across the same, shall not himself have the fee simple property in the land, on the opposite

**In what ca-
ses the courts
of C. P may
issue a writ
of ad quod
damnum**

side thereof, against which he would a-but his said dam, he shall make application for a writ of *ad quod damnum*, to the court of Common Pleas of the county where such land may lie, and having given ten days previous notice, to the proprietor thereof if he be to be found in the county, and if not, then to his agent, if any he hath in the county, or if no agent, to be advertised at the door of the court house of the proper county for two terms; which court shall thereupon, order their Clerk to issue such writ, to be directed to the Sheriff, commanding him to summon and empannel twelve fit persons to meet on the land so proposed for the abutment, on a certain day, to be named by the court, and inserted in the said writ, of which notice shall be given by the Sheriff to the said proprietor, or his agent, if any he hath.

**Proceedings
thereon.**

**Sheriff to
summon a
jury.**

Sec. 6. The jury so summoned and empannelled, shall be charged by the Sheriff, impartially, and to the best of their skill and judgment, to view the land proposed for an abutment, and to locate and circumscribe, by metes and bounds, one acre thereof, having due regard therein, to the interest of both parties, and to appraise the same accor-

**The jury
when met
their duty.**

H H H

dingly to its true value, to examine the land above and below, the property of others, which may probably overflow, and say what damage it will be to the several proprietors, and whether the mansion house of any such proprietor or proprietors or the offices, curtilages, or gardens thereunto immediately belonging, will be overflowed, to enquire whether, and in what degree, fish of passage, or ordinary navigation will be obstructed; whether by any, and what means, such obstruction may be prevented; and whether in their opinion, the health of the neighbours will be annoyed by the stagnation of the waters.

Inquest when made to be returned to the next court with the writ.

Further proceedings thereon.

Sec. 7. The inquest so made and sealed by the said jurors, together with the writ, shall be returned by the Sheriff to the next succeeding court, who shall thereupon order summonses to be issued to the several persons, proprietors or tenants, of the land so located, or found liable to damage, if they be to be found, within the county where the lands so to be condemned, or overflowed, do lie; and if not, then to their agent, if any they have, to shew cause, if any they have, why the party so applying, should not have leave to build his said mill dam.

Sec. 8. Where any person may have

built a mill, or other dam, whereby the water of any river, creek, run or spring may be rendered thereby stagnant, it may be lawful for any person interested therein, or who may be damaged by the overflowing of said water, to obtain a writ of *ad quod damnum*, in the same manner as is directed in case of persons wishing to build a new mill; and the jury so summoned, &c. shall ascertain the damage which any individual may sustain in consequence of the continuance of the said mill dam, and whether the said mill is of public utility; and after the jury aforesaid, shall have made their return; it shall be the duty of the owner or owners of the said mill, to pay to any, and every individual, the sum assessed by the jury aforesaid, and upon payment of said assessment the said owner or owners, shall be clear of all damages to the person interested, as aforesaid; any law, usage or custom to the contrary notwithstanding.

Sec. 9. In the like manner if the person proposing to build such mill and dam, have the fee simple property in the lands on both sides of the stream; yet application shall be made to the court of the county, where the mill house will stand, for a writ to examine as aforesaid; what lands may be overflowed, and to make the same examination and

Persons who may have built mills may apply for a writ of ad quod damnum.

And proceedings thereon.

Where the person is owner of lands on both sides the same proceedings.

report, as in the case last mentioned; which writ shall be directed, executed and returned, as prescribed in the former case.

**In what cases
the court
shall, or shall
not give
leave &c.**

Sec. 10. If on such inquest, or other evidence, it shall appear to the court that the mansion house of any proprietor, curtilage or garden thereunto immediately belonging, will be overflowed, or the health of the neighborhood annoyed, they shall not give leave to build such mill and dam; but if none of those injuries are likely to ensue, they are then to proceed to adjudge whether all circumstances weighed, it be reasonable that such leave should be given, or not given, accordingly.

**Where leave
is obtained,
the mill shall
be built and
kept in repair**

Sec. 11. And if the party applying shall obtain leave to build the said mill and dam, he shall upon paying respectively to the several proprietors entitled, the value of the acre so located, and the damage which the jurors find will be by overflowing, the lands above and below, become seized in fee simple of the said acre of land; but if he shall not within one year thereafter begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use; or in case the said mill and dam be destroyed; if he shall not begin to re-

**If mill des-
troyed & not
rebuilt, the
land to revert
unless &c.**

build it within one year after such destruction, and finish it within three years thereafter; the said acre of land shall revert to the former proprietor, and his heirs, unless at the time of such destruction, the owner thereof be a feme, covert infant, imprisoned, or of unsound mind in which case the same time shall be allowed after such disability removed.

Sec. 12. The inquest of the said jurors nevertheless, or opinion of the court, shall not bar any prosecution or action, which any person would have had in law, had this act never been made, other than for such injuries as were actually foreseen and estimated by the jury.

**When action
may be
brought.**

Sec. 13. All millers whose mills shall be established under this law, shall well and sufficiently grind the grain brought to their mills, and in due time, as the same shall be brought, and may take for toll such rates as are herein before established; and every miller failing to grind as aforesaid, as the same shall come in turn, or shall take or exact more toll, shall for every such offence, forfeit and pay to the person injured the sum of two dollars and fifty cents, recoverable before any magistrate

**Millers to
grind well &
in turn.**

**Penalty on
neglect and
how recov-
erable.**

within the county where the offence was committed.

Millers to keep sealed measures in their mills. Penalty on neglect.

Sec. 14. Every owner or occupier of a mill, shall keep therein a sealed half bushel, peck and toll dish, and measure all grain by striking measure, under the penalty as is mentioned for exacting more grain than is allowed by law, and if the miller be a servant his master shall pay the same.

Owners of dams over which a public road passes, to keep the dams in repair at least 12 feet wide

Sec. 15. The owner of every dam, over which a public road passes shall constantly keep such dam in repair, at least twelve feet wide, under the penalty of one dollar for every twenty four hours; but where a mill dam shall be carried away, or destroyed by tempest, the owner or occupier shall not be liable to the said penalty, provided the same be repaired within six months.

AN ACT

To amend an act, entitled "An Act, regulating Grist Mills and Millers, and for other purposes."

Passed Decr. 25, 1812.

Be it enacted by the legislative

Council and House of Representatives of the Illinois territory, and it is hereby enacted by the authority of the same, That, any person or persons who shall hereafter build any mill or dam on any river, creek, run or spring within this territory (without first complying with the ninth section of the act to which this is an amendment) & thereby work an injury to any other person or persons shall be subject to the fine of two hundred dollars for every such offence, to be recovered before any court of record in this territory by any person who shall or may be injured, and will sue for the same, and all mills so built without complying with the act aforesaid, shall be deemed to be nuisances and delt with as such.

**Persons to
comply with
same act.**

Penalty.

This act to commence and be in force from and after the passage thereof.

M O N E Y.

AN ACT

For regulating the interest of Money.

Passed September 17, 1817.

**6 percentum
per annum
legal interest**

Sec. 1. Creditors (excepting as hereinafter excepted) shall be allowed to receive interest at the rate of six per centum per annum for all monies after they become due, on bond, bill, promissary note or other instrument of writing, on any judgment recovered in any court of record now, or hereafter to be established, within the territory, from the day of signing judgment, until effects be sold or satisfaction of such judgment be made; likewise on money lent; on money for the forbearance of the payment whereof an express promise hath been made for the payment of interest; on money due on the settlement of accounts, from the day of liquidating accounts between the parties, and ascertaining the balance; on money received to the use of another, and retained without the owners knowledge; and on money withheld by an unreasonable and vexatious delay of payment.

Sec. 2. No person or persons, shall on any contract, which shall be made, directly or indirectly, take for the loan or use of money, or other commodity, above the value of six dollars, for the forbearance of one hundred dollars, or the value thereof, for one year, and so proportionably, for any greater or less sums, any law, custom or usage to the contrary notwithstanding.

**No person to
take more
than six per
cent per an-
num interest**

Sec. 3. If any person shall directly, or indirectly, receive any money, obligation, promise, or other commodity, by way of premium, or any other name by which the same may be called, or understood, to the end of obtaining any higher rate of interest than six per centum, per annum, for the loan or use of money, or any other commodity, on any contract which hath been made after the fifteenth November, one thousand seven hundred and ninety-nine, or shall hereafter be made; and shall institute an action in law for the recovery of the money due on, or by reason of the breach of such contract, so as aforesaid made, it shall be lawful for the defendant in such action, in pleading, to set forth the special matter in bar of so much of the real sum of money, or price of the commodity, actually lent, ad-

**Penalty for
taking more
than six per
cent.**

vanced or sold, as shall be the amount of the aforesaid premium or sum, actually received; and if the plea of the defendant is confessed, or adjudged good, on demurrer, supported by the verdict of a jury, then and in every such case, the plaintiff shall recover no more than what remains of the aforesaid sum of money, or price of the commodity, actually lent, advanced or sold after deducting the said premium, without even any interest on the principal, and if a residue is still left, the plaintiff may enter judgment for the same, and have execution thereof with interest, & costs accruing from the signing of the judgment: *Provided always*, That if the premium or usurious interest, and costs, exceed the principal, or real sum of money, or the price of the commodity actually lent, advanced or sold, the excess shall be deemed a debt of record, and on motion of the defendant made in open court, such defendant may enter judgment for the same, with costs, at the next, or any subsequent term, within one year, and have execution accordingly.

NEGROES & MULATTOES.

AN ACT

*Concerning the introduction of Negroes and
Mulattoes into this Territory.*

Passed Sept. 17, 1807.

Sec. 1. It shall and may be lawful for any person being the owner or possessor of any negroes or mulattoes of and above the age of fifteen years, and owing service and labor as slaves in any of the states or territories of the United States, or for any citizen of the said states or territories purchasing the same, to bring the said negroes or mulattoes into this territory.

**Slaves may
be bro't to
territory.**

Sec. 2. The owner or possessor of any negroes or mulattoes, as aforesaid, and bringing the same into this Territory, shall within thirty days after such removal, go with the same before the clerk of the court of Common Pleas of the proper county, and in the presence of the said clerk, the said owner or possessor shall determine and agree to and with his or her negro or mu-

**Agree with
slave for ser-
vice before
Cik. C. P.**

**Clk to mk.
recd. thereof**

latto, upon the term of years, which the said negro or mulatto will and shall serve his or her said owner or possessor, and the said clerk is hereby authorised and required to make a record thereof in a book which he shall keep for that purpose.

**Slaves may
be removed,
&c**

Sec. 3. If any negro or nulatto removed into this Territory as aforesaid, shall refuse to serve his or her owner as aforesaid, it shall and may be lawful for such person, within sixty days thereafter to remove the said negro or mulatto to any place, which by the laws of the United States, or territory, from whence such owner or possessor may or shall be authorised to remove the same.

Section 4, repealed.

**Slave under
15 to be held
to service &c**

Sec. 5. Any person removing into this territory, and being the owner or possessor of any negro or mulatto, as aforesaid under the age of fifteen years, or if any person shall hereafter acquire a property in any negro or mulatto under the age aforesaid, and who shall bring them into this territory; it shall and may be lawful for such person, owner or possessor to hold the said negro or mulatto to serve or labor, the male until they arrive at the age of thirty-five,

and females until they arrive at the age of thirty-two years.

Sec. 6. Any person removing any negro or mulatto into this territory, under the authority of the preceding sections, it shall be incumbent on such person within thirty days thereafter, to register the name and age of such negro or mulatto, with the clerk of the court of Common Pleas, for the proper county.

**To register
them with
C. P.**

Sec. 7, If any person shall remove any negro or mulatto from any one county to another county within this territory, who may or shall be brought into the same under the authority of either the first or fifth sections hereof it shall be incumbent on such person to register the same, and also the name and age of the said negro or mulatto, with the said Clerk of the county, from whence, and to which such negro or mulatto may be removed, within thirty days after such removal.

**Removing
&c. how to
proceed.**

Sec. 8. If any person shall neglect, or refuse to perform the duty required by the two preceeding sections hereof, such person for such offence, shall be fined in the sum of fifty dollars, to be recovered by indictment or information, and for the use of the proper county.

Penalty.

Sec. 9. If any person shall neglect or refuse to perform the duty and service herein required, he shall for every such neglect or refusal, be fined in the sum of fifty dollars, to be recovered by information or indictment, and for the use of the county.

**Clerk to take
bond, &c.**

Sec. 10. It shall be the duty of the clerk of the court of Common Pleas aforesaid, when any person shall apply to him to register any negro or mulatto, agreeably to the preceding section, to demand and receive the said applicants bond, with sufficient security in the penalty of five hundred dollars, payable to the governor or his successor in office, conditioned that the negro or mulatto, negroes or mulattoes, as the case may be, shall not after the expiration of his or her time of service, become a county charge, which bond shall be lodged with the county treasurers respectively, for the use of the said counties: *Provided always*, That no such bond shall be required or requirable, in case the time of service of such negro or mulatto, shall expire before he or she arrives at the age of forty years; if such negro or mulatto, be at that time capable to support him or herself, by his or her own labor.

Sec. 11. Any person who shall forci-

bly take or carry out of this territory, or who shall be aiding or assisting therein any person or persons owing or having owed service or labour, without the consent of such person or persons, previously obtained, before any Judge of the court of common Pleas of the county, where such person owing, or having owed such service or labour resides, which consent shall be certified by said Judge of the common pleas, to the clerk of the court of common pleas, where he resides, at or before the next court, any person so offending, upon conviction thereof, shall forfeit and pay one thousand dollars; one third to the use of the county, and two thirds to the use of the person so taken or carried away, to be recovered by action of debt, or on the case; *Provided*, That there shall be nothing in this section so construed as to prevent any master or mistress from removing any person owing service or labour, from this territory, as described in the third section of this act.

Servts. not to be removed from territory without consent &c.

Except as provided in 3rd section.

Sec. 12. The said Clerk for every register made in manner aforesaid, shall receive seventy-five cents from the applicant therefor.

Clerks fees

Sec. 13. The children born in this territory of a parent of colour, owing ser-

**Servts. chil-
dren to serve**

vice or labour by indenture, according to law, shall serve the master or mistress of such parent, the male until the age of thirty, and the female until the age of twenty eight years.

Sec. 14. The provisions contained in a law of this territory, respecting apprentices, entitled "An act respecting apprentices," shall be in force, as to such children, in case of the misbehaviour of the master or mistress or for cruelty or ill usage.

AN ACT

Concerning Negroes and Mulattoes.

Passed December 22, 1814.

Preamble.

Whereas the erection of mills and other valuable improvements are greatly retarded in this territory, from the want of labourers, and whereas, also, experience has proved, that the manufacture of salt in particular, at the United States' Saline, cannot be successfully carried on by white laborers and it being the interests of every discription of inhabitants to afford every facility to the most extensive manufacture of that article, so necessary to them all, as the

most natural means of obtaining a certainty of the necessary supplies thereof, at the lowest price.

Sec 1. Be it enacted by the legislative Council and House of Representatives of the Illinois territory, and it is hereby enacted by the authority of the same, That, if any slave whatsoever, shall voluntarily hire himself or herself within the territory by the consent of his or her master, for any term not exceeding twelve months, his or her continuance in the territory according to such hiring shall not operate in any way whatever to injure the right of property in the master in and to the services of such slave or slaves, *Provided however*, That in all such cases such slave or slaves shall be examined privately, separately & apart from his or her owner by a justice of the peace, or any clerk of the court, as to his or her voluntary consent and a certificate of such justice or clerk shall be conclusive evidence of such voluntary consent, and may be admitted to record and *Provided*, That said slave or slaves shall for the time being, be considered and treated as indentured servants.

Slaves may voluntarily hire themselves for one year with masters consent.

It shall not liberate them

Proviso.

Justice of the peace or Clk. to certify consent of slave.

Proviso.

This act shall commence and be in force from and after the passage thereof.

K K K

AN ACT

To prevent the Migration of free Negroes and Mulattoes into this Territory, and for other purposes.

Passed December 8, 1813.

**No free negro
to come into
the territory**

**To be order-
ed to depart
by a justice
of the peace.**

**How punish-
ed if he does
not depart.**

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of the Illinois Territory, That it shall not be lawful for any free Negro or Mulatto to migrate in this territory, and every free negro or mulatto, who shall come into this territory contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken, which justice is hereby authorised to examine, and order to leave the territory, every such free negro or mulatto, which said free negro or mulatto shall be allowed from the time of his examination before the justice of the peace, fifteen days to depart from the territory, and if after the expiration of the said fifteen days he or she shall be found in the territory he or she shall be carried before a justice of the peace, who shall order him or her to be whipped on his or her bare back, not exceeding thirty nine stripes nor less than twenty-five stripes, and if he or

she shall thereafter remain in the territory fifteen days he or she may be punished in the same manner as aforesaid and so on as long as he or she shall refuse or fail to depart from the territory.

Sec. 2. Be it further enacted that all free negroes and mulattoes now residing in the territory shall within six months after the passage of this act apply to the clerk of the court of Common Pleas of the county in which such negro or mulatto may reside to be registered and numbered by the clerk, which register shall specify the name, age, colour and stature of said free negro or mulatto, a copy of which register signed by the clerk shall be delivered to the said free negro or mulatto, for which the clerk shall demand of him or her the sum of fifty cents — *Provided however*, that no negro or mulatto as aforesaid shall claim the benefit of this section until he, she, or they produce to such clerk satisfactory evidence that he, she, or they is or are entitled to freedom, *Provided also*, that no negro or mulatto, who is claimed as a servant or slave by any person or persons shall be entitled to the benefit of this section.

Slaves now living in the territory to register themselves.

Proviso.

Proviso.

Sec. 3. Be it further enacted, that if any such free negro or mulatto being

**Failing to do
may be or-
dered out of
the teritory
by a justice
of peace**

of the age of twenty one years shall neglect to procure such certificate it shall be the duty of any Justice of the peace of the county, wherein he or she may be found to order him or her to leave the territory as in the first section of this act, and the said free negro or mulatto shall be subject to the same penalties for refusing to leave the territory as is provided in the first section of this act.

**How punish-
ed for steal-
ing or har-
boring run-
away negroes**

Sec. 4. Be it further enacted, that if any such free negro or mulatto shall hereafter be convicted before any Justice of the peace of the county where the offence was committed of stealing or harbouring runaway negroes or mulattoes or slaves belonging to persons either in this territory or elsewhere the said justice of the peace, whose duty it shall be to take cognizance of such offences, shall order him or her to receive on his or her bare back not less than thirty nine nor more than fifty lashes and the justice shall order him or her to depart from the territory, in thirty days and if such free negro or mulatto shall neglect to depart accordingly, he or she shall be dealt with in the same manner as is provided in the first section of this act.

Sec. 5. Be it further enacted, that any

such free negro or mulatto who is required by this act to register himself to the clerk as aforesaid, shall at the same time register with the said clerk in the same manner all such free negroes or mulattoes residing with him or her as may be under the age of twenty one years and in failure thereof such free negroes and mulattoes being under the age of twenty one years may by any citizen be carried before the court of Common Pleas of the county whose duty it shall be to bind them out until they attain the age of twenty five years, This act to commence and be in force from and after the passage thereof.

**Free negro
registering
themselves
to enter chil-
dren also.**

**Failing to do
so children
may be bound
out.**

NOTARY PUBLIC.

AN ACT

Regulating Notaries Public.

Passed September 17, 1807.

Sec. 1 The governor shall commis-
sion so many Notaries Public in this

**N. P. com-
missioned by
the governor**

territory, as to him shall seem necessary, who shall hold their offices during good behaviour.

**Make attesta-
tion &c.**

Sec. 2. They shall make all attestations, protestations and other things, which are by law directed relative to their offices, and it shall and may be lawful for every Notary Public to demand and receive the following fees to wit:

Fees.

For every attestation, protestation and other instrument of publication, under his proper seal relative to foreign bills of exchange, one dollar.

And for recording the same in a book to be kept for that purpose, if thereunto required by the holder of such bill or note, seventy five cents.

And for every attestation, protestation, and other instrument of publication, under his proper seal, relative to inland bills of exchange or promissory notes, fifty cents.

And for recording the same in a book kept for that purpose, if thereunto required by the holder of such bill, or note, twenty five cents.

Sec. 3. It shall be the duty of the governor to take bond with sufficient security from each Notary Public, before he enters on the duties of his office in the sum of five hundred dollars conditioned for the due performance of the duties of his office, which bond, if forfeited, shall be sued for in the name of the territory and for its use.

Give bond.

O A T H S.

AN ACT

Concerning persons Conscientiously scrupulous to take an Oath in the common form.

Passed September, 17, 1807.

Sec. 1. All and all manner of crimes, offences, matters, causes and things, to be enquired of, heard, tried and determined, or done, or performed by virtue of any law or otherwise, shall and may be enquired of, heard,

Persons scrupulous to take an oath may take an affirmation &c.

**Form of an
oath or affir-
mation.**

**Affirmation
to have the
same effect in
law as an
oath.**

**Punishment
for false af-
firmation
same as for
perjury.**

**No person
enabled to
exercise an
office before
he takes oath
&c. to the**

tried and determined by Judges, Justices witnesses and inquest. And all other persons, qualifying themselves according to their conscientious persuasions, respectively; those of the people commonly called Quakers, by taking the solemn affirmation, and those of the persuasions who swear with uplifted hand or hands, by taking an oath in the following words: 'I, A B, do swear or affirm (as the case may be) that I will, (and so forth) and that as I shall answer to God at the great day,' — Which oath, so taken, by persons who conscientiously refuse to take an oath, in the common form, shall be deemed and taken, in law, to have the same effect with an oath taken in the common form.

Sec. 2. If any person shall be legally convicted of taking a false affirmation or of falsely swearing, under the form herein particularly prescribed, he or she, shall incur, and suffer the same pains, penalties, disabilities, and forfeitures, as persons convicted of wilful, and corrupt perjury, do incur and suffer by law.

Sec. 3. *Provided always,* That nothing herein contained, shall be held, deemed, or construed, to enable any such person to receive, take, or exercise, any office,

judicial or ministerial, before he shall take the oath or oaths to the government, according to his conscience, and agreeably to the directions of an act of the United States, entitled "An act prescribing the time and manner of administering certain oaths," and also the oaths of office.

**government
of the U. S.
and oath &c.
of office.**

AN ACT

Respecting Oaths of Office.

Passed Sept. 17, 1807.

Sec. 1. Every person appointed to any civil office in this territory, and commissioned by the Governor shall previously to his entering upon the exercise of his office take the following oath, to wit: I, A B being appointed to the office of do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality, so help me God. And person appointed as afore-said, conscientiously scrupulous of taking an oath, shall make the following affirmation previously to his entering

**Civil officers
commission-
ed by the
governor, to
take oaths of
office or af-
firmation.**

L L L

**Before
whom taken
and how
certified**

upon the duties of his office, viz. I, A B being appointed to the office of do solemnly, sincerely, & truly declare, and affirm, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality, and this I declare and affirm under the pains and penalties of perjury; and that all oaths of office, or declarations & affirmations prescribed as aforesaid, shall be taken before the Governor, or such person or persons, as shall by him be appointed and commissioned for that purpose, and certified upon the commission of the person taking the same; and in case of the absence of the Governor, the said oath, or declaration and affirmation may be taken before, and certified by either of the judges of the territory.

AN ACT

Empowering the clerks of the Supreme Court to administer oaths in certain cases and for other purposes.

Passed Decr. 22, 1814.

Whereas the existing law requiring that the Governor of the Territory

shall administer the oaths prescribed by law to all officers appointed under the authority of this government or that he shall issue a dedimus potestatem in such cases to some other person for that purpose is found to be productive of inconvenience, and subject to disappointments and delays in consequence of the extent of the territory and various casualties that attend the sending special powers, for remedy whereof.

Preamble.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of the Illinois Territory, and it is hereby enacted by the authority of the same, that the clerks of the Supreme court in the respective counties in which they are clerks shall be authorised, and are hereby required to administer the oaths prescribed by law to all persons, who may be appointed to offices within their respective counties whenever thereto required by any person producing a commission from the Governor appointing him to an office as aforesaid. And it shall moreover be the duty of each clerk as aforesaid to make and preserve a record of all such cases and transmit once in every three months a list of those persons to whom he may have administered such oaths together with the several dates thereof to the Secretary of the territory.

**To swear
into office
persons com-
missioned by
the governor**

**To keep a
list and send
a copy of it
quarterly to
the secretary**

To receive redemption money for lands of residents for taxes.

Sec. 2 Be it further enacted, that in all cases whatever in which it has heretofore been the duty of the respective clerks of the courts of Common Pleas to receive redemption money, for lands sold for the taxes that duty shall hereafter be performed by the respective clerks of the Supreme court, in their respective counties, and they shall in all respects whatever be subject to the same laws which now govern the said clerks of Common Pleas in such cases.

To take affidavits to be used in court and all oaths appertaining to their offices.

Sec. 3. Be it further enacted, that all clerks of courts shall be and hereby are authorised and empowered to administer all oaths upon any affidavit to be presented to the courts, of which they are or may be the clerks, and all other oaths whatever appertaining to the business of their respective offices.

OCCUPANCY.

AN ACT

*Concerning Occupying Claimants of Land
Adopted from the Kentucky Code.*

Passed January 24, 1811.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same, That whereas from the frequency of interfering claims to land and the unsettled state of the country, it often happens that titles lay a long time dormant, and many persons deducing a fair title from the record, settle themselves on land supposing it to be their own, from which they may afterwards be evicted by a title paramount thereto; and it is just that the proprietor of the better title shall pay the occupying claimant of the land for all valuable improvements made thereon, and also, that the occupying claimant shall satisfy the real owner of the same for all damages that may have

Preamble.

been done to the land by the commission of waste or otherwise, during the occupancy, therefore—

Persons evicted by better title in what case not liable for rents &c.

Sec. 1. Be it enacted by the authority aforesaid, That all and every person who may hereafter be evicted from any land for which he can shew a plain and connected title in law or equity deduced from the record of some public office without actual notice of an adverse title in like manner derived from record, shall be exempt and free from all and every species of action, writ or prosecution for, or on account of any rents or profits or damages, which shall have been done, accrued or incurred at any time prior to receipt of actual notice of the adverse claim, by which the eviction may be effected, provided such person obtained peaceable possession of the land.

Court to appoint persons to value improvements.

Sec. 2. And be it further enacted, That the court, who shall pronounce and give the judgment of eviction either in law or equity, shall at the time nominate seven fit persons, any five of whom shall have power and it shall be their duty to go on the premises and after viewing the same on oath or affirmation to assess the value of all such lasting and valuable improvements which shall have been made thereon prior to

the receipt of such notice as aforesaid and also to assess all damages the land may have sustained by the commission of any kind of waste or by the deduction of soil by cultivation or otherwise during the occupancy of the person evicted and then substract the same from the estimated value of the said improvements, which assessment signed & sealed by the persons making the same shall be by them lodged with the clerk of the court wherein they were nominated, before the next ensuing term or as soon thereafter as may be convenient, and at the next court after such assessment, it shall be entered up as a judgment in favour of the person evicted and against the successful claimant of the land, by the clerk, upon which judgment execution shall immediately be issued by the clerk if directed by the person evicted, unless the successful claimant, shall give bond and security to be judged of by the court to the person evicted, and to be taken at the time of entering up such judgment, conditioned to pay the same within twelve months from the date thereof, with five percent interest thereon; Provided the balance shall ultimately be in favour of such occupying claimant according to the directions and provisions of this act, which bond shall have the force of a judgment and at the expiration of

**They shall
make report
judgt. rendered there-
upon.**

Proviso.

twelve months aforesaid an execution shall be issued upon the same by the clerk of the court in which it was taken, at the request of the party entitled thereto on oath being made that the same is yet due should the balance be in favour of the successful claimant, judgment in like manner shall be entered up in his favour against the other party for the amount of the same, upon which execution may be issued as aforesaid, unless bond and security shall be given to such claimant, which may be acted upon in the manner before directed, and to declare what shall be the law between adverse claimants under distinct titles of the kinds aforesaid after notice.

Discrimination in improvements made before or after notice of Adverse claim.

Sec. 3. Be it further enacted by the authority aforesaid, That the persons nominated by the court as aforesaid, when making an assessment, shall carefully distinguish between such improvements as were made on the land prior to notice, and those which were made after notice, and when making an assessment they shall also take into consideration all such necessary and lasting improvements as shall have been made on the lands after the receipt of such notice as aforesaid; and shall ascertain the amount of the value thereof, and they shall also take into consideration, and ascertain the amount of the value

of the rent and profits arising from the whole of the improvements on the land from the time that notice of such adverse claim was received by the occupying claimant and then after taking the amount of the one from the other the balance shall be added to or subtracted from the amount of the value of the improvements which shall have been made before the receipt of the notice aforesaid, as the nature of the case shall require.

Sec. 4. Be it further enacted, that the said commissioners shall also estimate the value of the lands in dispute exclusive of any improvements that shall have been made thereon, and make report of the amount of such valuation to the court, and if the value of the improvements shall exceed such estimated value of the land in dispute in that case, it shall and may be lawful for the proprietor of the better title to transfer or convey as the nature of the case may require his better title to the occupying claimant and thereupon a judgment shall be entered up in his favour against the occupying claimant for such estimated value upon which an execution may issue unless the occupying claimant shall give bond and security to be approved of by the court to pay the amount of such judgment within one year after the

**Land to be
valued as if
unimproved.**

Where successful claimant may convey the land to the occupant & take judgment for the valuation

M M M

person transferring or conveying as aforesaid, with interest from the date which bond shall have the force of a judgment and if not paid at the expiration of the year an execution may issue in the manner before directed by this act, *Provided however*, that the proprietor of the better title shall in every such case at the time of entering up judgment in his favour give bond and security to be approved of by the court to the occupying claimant to refund the amount of such judgment in case the land so transferred or conveyed shall ever thereafter be taken from him by any other prior or better claim.

The commissioners to take an oath to summon and swear witnesses.

Sec. 5. Be it further enacted, that the persons nominated by the court in virtue of this act shall be called commissioners and shall respectively take an oath or affirmation to do equal right to the parties in controversy and shall also have power and authority to call witnesses and administer the necessary oaths and to examine them for the ascertainment of any fact material in the enquiry and assessment by this act directed.

Report of the commissioners and allowance.

Sec. 6. And be it further enacted, that the said commissioners in making every estimate of value by virtue of this act shall state separately the result of each and the court shall have power to make such allowance to the said commissioners in any case as shall seem just which

allowance shall be taxed and collected as costs, *Provided*, that this act shall not be extended to affect or impair the obligation of contracts or to authorise the occupying claimant to be twice paid for his improvements and in all cases where the occupying claimant is paid for his improvements by any other person than the proprietor of the better title, such person shall have the same redress as is allowed to the occupying claimant.

Proviso.

Sec. 7. *And be it further enacted*, That the court shall have the same power to proceed by appointing commissioners to assess the value of the improvements and the damages by the commission of any kind of waste, by reduction of soil by cultivation or otherwise during the occupancy of the person evicted in case of arbitration or by consent of the parties on motion without suit.

waste and reduction of soil to be considered.

Sec. 8. *And be it further enacted*, That notice of any adverse claim or title to the land within the meaning of this act, shall have been given by bringing a suit either in law or equity for the same by the one or the other of the parties, and may hereafter be given by bringing a suit as aforesaid, or by delivering an attested copy of the entry, survey or patent from which he derives his title or claim, or leaving any such copy with the party, his

Legal notice of adverse claim, what

Proviso.

wife or other free person above the age of sixteen years, on the plantation; *Provided however*, That the notice given by the delivery of an attested copy as aforesaid, shall be void, unless suit is brought within one year thereafter; *Provided*, That in no case shall the proprietor of the better title be obliged to pay to the occupying claimant for improvements made after notice, more than what is equal to the rents and profits aforesaid.

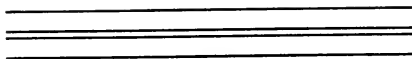
Notice to whom it extends.

Sec. 9. *And be it further enacted*, That notice to any occupying claimant shall bind all those claiming from, by, or through such occupying claimant to the extent of such claim.

Sec. 10. *And be it further enacted*, That nothing in this act shall be construed so as to prevent any court from issuing a precept to stay waste, and ruling the party to give bond and security in such manner as such court may think right.

This act shall be in force from the passage thereof.

The foregoing is hereby declared to be a law of this Territory.



P A R D O N.



AN ACT

*Concerning the powers of the Governor of the
Territory of Illinois.*

*Adopted from the constitution of the State of
Pennsylvania.*

Passed January 23, 1811.

Be it enacted by the Governor and Judges of Illinois Territory and it is hereby enacted by the authority of same that the governor of the territory aforesaid shall have power to remit fines, and forfeitures and grant reprieves and pardons, except in cases of Impeachment.

The foregoing is declared to be a law of the territory and to have effect as such.

 PARTITION OF LAND.

 AN ACT

For the Partition of Land.

Passed September 17, 1807.

How real estate may be divided.

Notice being given.

Crt. to appoint comrs.

To take oath

Sec. 1. Where any one or more persons, proprietors of any tract or tracts, lot or lots of land within this territory, are desirous of having the same divided, it shall and may be lawful for the court of Common Pleas, of the county where such land or lots may lie, on the application of either party, notice of such application having been previously given by the party so applying, for at least four weeks, in some one of the public news-papers in this territory, if one is published therein, if not, at the court house door of the county where the lands lie, to appoint three reputable freeholders, residents of said county, not related to either of the parties as commissioners for dividing the said tract or lot of land, and having previously taken an oath, before any Judge of the General court, or of the court of Common Pleas of said county, honestly and impartially to execute

the trust reposed in them as commissioners aforesaid, shall proceed to make division of the said land, lots, tenements and hereditaments as directed by the court, among the owners and proprietors thereof, according to their respective rights, which partition being made by the said commissioners, or any two of them, and return thereof being made in writing under their hands and seals, to the said court, particularly describing the lots or portions allowed to each respective owner or proprietor, mentioning which of the owner or owners, proprietor or proprietors, are minors, if any such there shall be; which return being acknowledged by the commissioners making the same, before any one of the Judges of the court of Common Pleas, for the said county, and accepted by the court, and entered and recorded in the Clerks office, shall be a partition of such lands, lots and tenements therein mentioned.

Sec. 2. Where any houses and lots, are so circumstanced, that a division thereof cannot be had, without great prejudice to the proprietors of the same; and the commissioners appointed to divide the same, shall so report to the court, the court shall thereupon give orders to the said commissioners to sell such house and lot or houses and lots, at public vendue,

Make division according to rights.

Make return under seal to court.

Describing minors &c.

**Ackd before Judge C. P.
Accepted by crt. to be recorded and serve as partition.**

In case division cant' be made comrs. to report.

**Crt. to order
sale.**

**Comrs. to
make deeds.
Bar vs. clai-
nants.**

**Pay amount
of sales to
proprietors.**

**Comrs to
receive from
applicant 1
1-2 dollars
per diem**

**Guardian to
act for min-
or.**

**No division
or sale con-
trary to will**

and shall make and execute good and sufficient conveyance or conveyances to the purchaser or purchasers thereof, which shall operate as an effectual bar both in law and equity, against such owners or proprietors, and all persons claiming under them; and the monies arising therefrom to pay to the owners or proprietors of such houses and lots, their guardians or legal representatives, as shall be directed in the said order.

Sec. 3. The said commissioners so appointed shall be entitled to receive from the person making the application, the sum of one dollar and fifty cents for every day they shall be employed in effecting such division.

Sec. 4. And the guardians of all minors shall be and hereby are respectively authorised and empowered on behalf of the respective minors, whose guardians they are to do and perform any matter or thing respecting the division of any lands tenements, hereditaments as is herein directed, which shall be binding on such minor, and be deemed as valid to every purpose as if the same had been done by such minor after he had arrived at full age.

Sec. 5. *Provided always*, That no division or sale shall be made by order of the said court as above directed contrary to the intention

of any testator, as expressed in his last will and testament.

P O O R.

A L A W

For the relief of the Poor.

Passed Sept. 17, 1807.

Sec. 1. The court of Common Pleas in the several counties in this territory, at every first session of said court, yearly and every year, after the first day of January, shall nominate and appoint two substantial inhabitants of every township within their respective jurisdictions, to be overseers of the poor of such township.

**Overseers of
the poor how
& by whom
appointed.**

Sec. 2. And if any overseer shall die, remove or become insolvent, before the expiration of his office, two Judges of the court of Common Pleas, on due proof being thereof made before them, shall appoint another in his stead. Every overseer so nominated and appointed, shall before he enters upon the ex-

**In case of
death &c of
overseer, va-
cancy how
supplied.**

**Overseer to
take oath &c**

N N N

ecution of his office take an oath or affirmation, respectively, according to law; which any Judge or Justice in the counties respectively, is hereby authorised and empowered to administer, that he will discharge the office of overseer of the poor, truly, faithfully and impartially, to the best of his knowledge and ability.

**Overseers to
farm out pau-
pers, when
& how.**

Sec. 3. It shall be the duty of the overseers of the poor in each and every township, yearly and every year, to cause all poor persons, who have, or shall become a public charge to be farmed out at public vendue, or out cry, to wit: On the first Monday in May, yearly and every year, at some public place in each township in the several counties in this territory, respectively to the person or persons, who shall appear to be the lowest bidder or bidders, having given ten days previous notice of such sale, in at least three of the most public places in their respective townships, which notices shall set forth the name and age, as near as may be, of each person to be farmed out as aforesaid.

**When to
make return
to the court
of C P.**

Sec. 4. The overseers of the poor, shall make a return into the Clerk's office of the court of Common Pleas of the county, of the sum or sums of money, for which the poor of their respective townships were sold, within fifteen days after every such sale shall have been made; and it shall be the duty of such

court, to levy and cause to be collected in the same manner as other county rates are levied and collected, a sum of money equal to the amount of the several sums for which the poor of the several townships shall have been sold.

Duty of the court.

Sec. 5. The farmers of the poor shall be entitled to receive from the county treasury half yearly on the order of the court aforesaid, on the certificate of the overseers of the poor, stating the sum due, the compensation which shall have been stipulated as aforesaid, in full satisfaction for their trouble, and for all expenses in keeping and supporting the poor, for the term of one year as aforesaid, and if any person or persons, shall become legally a town charge, after the poor of the township shall have been sold as aforesaid, it shall be the duty of the overseers to proceed in manner aforesaid to dispose of such poor person or persons for the remainder of the year, giving the same notice of such farming out.

Farmers of the poor how paid, &c.

Sec. 6. And it shall be lawful for the farmers of the poor to keep all poor persons under their charge, at moderate labour, and every person who shall refuse to be lodged, kept, maintained, and employed in the house or houses of such farmers of the poor, he or she, shall not be entitled to receive relief from the overseers during such refusal; and it shall be the duty

Farmers of the poor may keep them at moderate labour &c. Paupers refusing to labor, no entitled to relief during such refusal.

When paupers are illy treated how to proceed.

of the overseers, on any complaint made to them, or on behalf of the poor, to examine into the ground of such complaint, and if in their opinion, the poor have not been sufficiently provided with the common necessities of life, or have been in any respect illy treated, by the farmers aforesaid, it shall be lawful for the overseers to with-hold any part of the compensation aforesaid, not exceeding one half thereof.

Poor children to be by overseers put out apprentices.

Sec. 7. It shall and may be lawful for the overseers of the poor of the townships aforesaid, by the approbation and consent of two Justices of the Peace of the county to put out as apprentices, all such poor children, whose parents are dead, or shall be by the Justices found unable to maintain them, males till the the age of twenty-one, and females till the age of eighteen years.

How and at what ages.

No paupers to be relieved unless by order of two justices of the peace.

Sec. 8. No person or persons shall be admitted or entered in the poor book of any of the said townships, or receive relief, before such person or persons shall have procured an order from two Justices of the Peace, for the same. And in case the said overseers shall enter in their books, or relieve any such person or persons, without such order, they shall forfeit all such money or goods so paid, or distri-

buted, unless such entry or relief shall be approved of as aforesaid.

Sec. 9. The court of Common Pleas shall annually on the day on which overseers of the poor are appointed, choose three capable and discreet freeholders in each township to settle and adjust the accounts of the overseers of the poor of the respective townships for the preceding year, and the persons who shall have served in the office, shall on the said day, or on any other day, which the said freeholders, so chosen, shall appoint, within fifteen days next after, deliver and render to the said freeholders, a just account in writing, entered in a book to be kept for that purpose, and signed by him, of all sums by him received; and also of all materials that have come to his hands, during his office, and of all money paid by such overseers, and of all other things concerning his office, which accounts when settled, shall be signed by the said freeholders, or any two of them, who shall have full power to allow such parts thereof only, as to them shall appear just and reasonable.

Overseers accounts how to be kept & settled.

Controlled by three freeholders appointed by the court.

Sec. 10. The said overseers shall make fair entries in a book, of the names of all the poor within their respective townships; with the time when each of them became chargeable, and of all certificates delivered to them, and by

The names of the poor to be entered in the overseers books &c.

Compensation to overseers, how made.

Delinquent overseers, how punishable.

Appeal.

whom, with the times when the same were delivered for which trouble the said freeholders, or any two of them shall make such allowances as they shall judge reasonable; and if any of the said overseers shall refuse or neglect to make and yield up such books and accounts, within the time as aforesaid, or if any such whose office shall expire, shall refuse, or neglect to pay over the money, and deliver up the books aforesaid, and every other thing in his hands, concerning his said office, to his successor, within thirty days after his going out of office; it shall be lawful to and for any Justice of the Peace of the said county, to commit such overseer to the common jail, there to remain without bail or mainprize, till such overseers shall give such accounts and pay and deliver up such money, books and other things, as he ought in manner aforesaid. If any overseer shall think himself aggrieved by the settlement of his account by the said freeholders, he may (having first paid over to his successor the ballance found in his hands, if any such there be) appeal to the next court of Common Pleas, who shall, on petition of the party, take such order therein, and give such relief as to them shall appear just and reasonable, and the same shall conclude all parties.

Sec. 11. And if any person appointed as

overseer of the poor of any township, shall refuse, or neglect to take upon him, the said office, he shall forfeit twelve dollars, to, and for the use of the county; which forfeiture shall be levied by warrant, from any two Justices of the county, or of the townships respectively, under their hands and seals, on the goods and chattels of such person or persons, so neglecting or refusing, and sold within three days next after distress made; and if there happen any overplus upon sale thereof, the same shall be paid to the owner or owners, reasonable charges being first deducted, and if such person or persons, so neglecting, or refusing, as aforesaid, shall not have goods or chattels, wherewith he or they may be distrained as aforesaid, then the said Justices may commit the offender or offenders to prison, there to remain without bail or main-prize, till the said forfeiture shall be fully satisfied and paid.

Overseers neglecting to take office forfeit 12 dollars to county.

How recoverable.

Sec. 12. If any overseer shall remove, he shall before his removal, deliver over to some other overseer of the township or place, from which he removes, all his books, papers, and other things concerning his office; and upon the death of any overseer, his executors, or administrators, shall, within forty days after his decease, deliver over, all things concerning his office, to some other overseer as aforesaid.

Overseers removing &c. how enjoined, and how executors &c in case of death.

**Property
may be had
for the poor
and to what
amount.**

Sec. 13. All gifts, grants, devises, and bequests, hereafter to be made of any houses, lands, tenements, rents, goods, chattles, sum or sums of money, not exceeding in the whole, the yearly value of twelve hundred dollars, to the poor of any township, or to any other person or persons, for their use, by deed, or by the last will and testament of any person or persons, or otherwise however; shall be good and available in law, and shall pass such houses and lands, tenements, rents, goods and chattels, to the overseers of the poor of such township, for the use of their poor respectively.

**Overseers in
each town-
ship a body
corporate.**

Sec. 14. The overseers of the poor for the several townships for the time being, respectively, shall forever hereafter, in name and in fact, be and they are hereby declared to be bodies politic and corporate, in law, to all intents and purposes, and shall have perpetual succession; and may by the name of the overseers of the poor of the said township, sue, and be sued, and plead, and be impleaded, in all courts of judicature, and by that name, shall and may purchase take or receive any lands, tenements or hereditaments, goods, chattels, sum or sums of money, not exceeding in the whole, including all gifts, grants, devises and bequests, heretofore made, the aforesaid yearly

value of twelve hundred dollars, to and for the use and benefit of the poor of the respective townships, of the gift, alienation or devise of any person or persons whomever; to hold to them, the said overseers, and their successors, in the said trust, for the use of the said poor forever.

Sec. 15. If any person who shall come to inhabit in any county or place within this Territory, shall, for himself, and on his own account, execute any public office, being legally placed therein, in the said county or place, during one whole year; or if any person shall be charged with and pay his or her share of the public tax or levy of such county, for two years successively, or if any person shall really and bona fide, take a lease of any lands, or tenements in said county, or place of the yearly value of twenty-five dollars, and shall dwell in or on the same for one whole year, and pay the said rent, or shall become seized of any freehold estate, in any lands or tenements in such county or place, and shall dwell in, and upon the same, for one whole year, such person in any of these cases, shall be adjudged and deemed to gain a legal settlement in the same county or place where such person shall so execute an office, be charged with and pay taxes, take such

**Qualification
for a legal
settlement.**

**Exercising
public office.**

Paying taxes

Leasing lands

**On being a
freeholder.**

O o o

**Hiring and
service.****Being appren-
tices.**

lease or own any such freehold estate, and dwelling thereon, as aforesaid, or being hired or bound, shall continue and inhabit in a place for one whole year as aforesaid, every indentured servant legally brought into this territory, shall obtain a legal settlement in the county or place, in which such servant shall have first served, with his or her master or mistress the space of sixty days, and if afterwards such servant shall duly serve, in any other place for the space of six months, such servant shall obtain a legal settlement, in the county or place, where such service was last performed, either with his or her first master or mistress, or on assignment.

**As to married
women
and widows.**

Sec. 16. Every married woman shall be deemed during converture, and after her husband's death, to be legally settled in the place where he was last legally settled, but if he shall have no legal settlement, then she shall be deemed, whether he is living or dead to be legally settled in the place where she was legally settled before the marriage.

**Concerning
strangers coming
into
townships.**

Sec. 17. If any person or persons shall come out of the United States into any county or place within this territory, or shall come out of any county or place within this territory, into any other county or place thereof, there to inhabit and reside, and shall at the

same time procure, bring and deliver unto the overseers of the poor, of the township or place where he, she or they, shall come to inhabit, a certificate under the hands and seals of the overseers of the poor of the county, township or place from whence he, she or they removed, to be allowed by two or more credible witnesses, thereby acknowledging, the person or persons mentioned in said certificate, to be inhabitant or inhabitants legally settled in that county, township or place; every such certificate having been allowed of and subscribed by one or more Justices of the peace of the proper county, where such county or township, shall oblige the said county, township or place, to provide for the persons mentioned in the said certificate, together with his or her family, as inhabitants of that place, wherever he she or they happen to become chargeable, to, or be obliged to ask relief of the county township or place, to which such certificate was given, and into which he, she or they were received by virtue of the said certificate and then and not before, it shall and may be lawful for any such person, and his, her or their children, though born in the county, township or place, and his or her servants or apprentices, not having otherwise acquired a legal settlement there, to be removed, con-

**Certificate
and their re-
quisites to be
valid.**

veyed and settled, in the county, township or place from whence such certificate was brought, and the witnesses who attest the execution of the certificate by the overseers, or one of the witnesses, shall make oath or affirmation according to law, before the Justices who are to allow the same, that such witness or witnesses did see the overseers of the poor whose names and seals are thereunto subscribed and set, severally sign & seal the said certificate; & that the names of each witness attesting the said certificate are of their own proper hand writing; which said Justice shall also certify, that such oath or affirmation was made before them, and every such certificate

so allowed, and oath or affirmation of the execution thereof so certified, by the Justices, shall be taken and received as evidence without other proof thereof, and no person so coming by certificate into any county or place, nor an apprentice or servant to such person shall be deemed or adjudged by any law whatsoever, to have gained a legal settlement therein, unless such person shall after the date of such certificate, execute some public annual office, being legally placed therein in such county or place.

Sec. 18. No person whomsoever, coming

into any county or place without such certificate, as aforesaid, shall gain a legal settlement therein, unless such person shall give security if required, at his or her coming into the same, for indemnifying and discharging such county or place to be allowed by any one of the Justices of the peace respectively.

No legal settlement gained by strangers without a certificate, unless security given.

Sec. 19. Upon any complaint made by the overseers of the poor of the proper county or place, to any one or more of the Justices of the said county, wherein such township or place is situate, it shall and may be lawful to and for any two Justices of the said county, respectively, where any person or persons is or are likely to become chargeable to said county or place, where he, she or they shall come to inhabit, by their warrant or order, directed to the said overseers, to remove and convey such person or persons, to the county, township, place or state, where he she or they was, or were, last legally settled, unless such person or persons shall give sufficient security to discharge and indemnify the said county or place, to which he, she or they, is, or are likely to become chargeable as aforesaid.

Persons likely to become chargeable, how to be removed.

Sec. 20. If any person or persons shall think himself or themselves aggrieved by any order of removal made by any of the said Jus-

Appeal on removals.

**Proceedings
thereon.**

tices, such person or persons may appeal to the next court of Common Pleas, for the county from whence such poor person shall be removed, and not elsewhere, which said court shall determine the same; and if there be any defects of form in such order, the said court shall cause the same to be certified and amended, without any costs to the party; and after such amendment shall proceed to hear the truth and merits of the cause, but no such order of removal shall be proceeded upon unless reasonable notice be given by the overseers of the township or place, appealing unto the overseers of the township or place from which the removal shall be, the reasonableness of which notice shall be determined by the court to which the appeal is made, and if it shall appear to said court that reasonable time of notice was not given, then the appeal shall be adjourned to the next court, and there determine the same.

Against vexatious removals and frivolous appeals.

Sec. 21. For the more effectual prevention of vexatious removals and frivolous appeals the court in term, upon any appeal concerning the settlement of any poor person, or upon any proof before them then to be made of notice of any such appeal to have been given by the proper officer to the overseers of any township or place (though they did not afterwards prosecute such appeal) shall at the same term, or

der the party in whose behalf such appeals shall be determined, or to whom such notice did appear to have been given, such costs and charges, as the said court shall think just and reasonable, to be paid by the overseers, or any other person against whom such appeal shall be determined, or by the person that did give such notice.

**Costs on ap
peals.**

And if the person ordered to pay such costs and charges, shall live out of the jurisdiction of said court, any Justice where such person shall inhabit, shall, on request to him made, and a true copy of the order for payment of such costs and charges, certified under the hand of the Clerk of the court, by his warrant, cause the same to be levied by distress; and if no such distress can be had, shall commit such person to the common jail, there to remain without bail or main-prize, until he pays the said costs and charges.

**How recove
rable.**

Sec. 22. But if the said court on such appeal, shall determine in favour of the appellant, that such poor person was unduly removed, the court shall at the same term, order and award to such appellant, so much money, as shall appear to the said court to have been reasonably paid by the county, township or place, on whose behalf such appeal was made, towards the relief of such poor person, between

**On judgt.
for appallan**

Costs thereon**How recoverable.**

the time of such undue removal, and the determination of such appeal, with the costs aforesaid, the said money so awarded, and the costs to be recovered in the same manner as the costs and charges awarded against an appellant, are to be recovered by virtue of this law as aforesaid.

Penalty on persons receiving others not being legally settled, without giving notice thereof to overseers.

How recoverable.

Sec. 23 If any house keeper, or inhabitant of the territory, shall take into, receive or entertain in his or her house or houses, any person or persons whatsoever, not being persons who have gained a legal settlement in some county, township, or place within this territory, and shall not give notice thereof in writing to the proper overseers of the poor, within ten days, next after so receiving or entertaining such person or persons, such inhabitant, or house keeper, being thereof legally convicted, by the testimony of one credible witness on oath or affirmation, before any one Justice of the Peace of the county where such person dwells, shall forfeit and pay the sum of three dollars, for every such offence; the one moiety to the use of the county, and the other moiety to the informer, to be levied on the goods and chattels of the delinquents, in the manner hereinafter directed, and for want of sufficient distress, the offender to be committed to the work house of the

township, or the jail of the said county, there to remain, without bail or mainprize, for the space of ten days.

Sec. 24. And moveover, in case the person or persons, so entertained, or concealed, shall become poor, and unable to maintain himself, or herself, or themselves, and cannot be removed to the place of his, or her, or their last legal settlement in any other state, if any such, he she, or they, have, or shall happen to die, and not have wherewith to defray the charges of his, her or their funeral, then, and in such case, the house keeper, or person convicted of entertaining, or concealing such poor person, against the tenor of this law, shall be obliged to provide for, and maintain such poor and indigent person or persons; and in case of such poor persons death, shall pay the overseers of the poor, so much money as shall be expended on the burying of such poor and indigent person or persons, and upon refusal so to do it shall be lawful for the overseers of the poor of said township, or place respectively, and they are hereby required to assess a sum of money on the person or persons so convicted, from time to time by a weekly assessment for maintaining such poor and indigent person or persons, or assess a sum of money for de-

Further penalty in case of paupers death.

P P P

How recoverable.

fraying the charges of such poor person's funeral as the case may be; and in case the party convicted shall refuse to pay the sum of money so assessed or charged to the overseers of the poor for the uses aforesaid, the same shall be levied on the goods and chattels of the offender in the manner hereafter directed. But if such persons so convicted have no goods or chattels, to satisfy the sum so assessed for him or them to pay; then the said Justices shall commit the offender to prison, there to remain without bail or main-prize, until he or they shall have paid the same; or until he or they shall be discharged by due course of law.

Overseers shall receive all poor lawfully removed.

Sec. 25. If any person be removed by virtue of this law, from one county, township or place to another, by warrant or order under the hands and seals, of two Justices of the peace as aforesaid, the overseers of the poor of the township or place, to which the said person shall be removed, are hereby required to receive said person; and if any of the said overseers shall neglect or refuse so to do, he or they so offending, upon proof thereof by one or more credible witnesses, upon oath or affirmation, before one or more of the Justices of the peace of the county where the offender doth reside, shall forfeit for every such offence the sum of twelve dollars, to the Sheriff for

Penalty on neglect.

the use of the county, to be levied by distress and sale of the offenders goods, by warrant under the hand and seal of the said Justice of the Peace, which he is hereby required and empowered to make, directed to the constable of the township, or place, where such offender or offenders dwell, returning the overplus, if any there be, to the owner or owners; and for want of sufficient distress, then the offender to be committed to the jail of the county where he dwells, there to remain without bail or main-prize, for the space of forty days.

How recoverable.

Sec. 26. If any poor person shall come to any township or place within this territory, and shall happen to fall sick or die, before he or she have gained a legal settlement in the county or place, to which he or she shall come, so that such person cannot be removed, the overseers of the poor of the township or place into which such person is come, or one of them, shall, as soon as conveniently may be, give notice to the overseers of the poor of the township or place, where such person had last gained a legal settlement, or to one of them, of the name, circumstances & condition of such poor person; and if the overseers of the poor to whom such notice shall be given, shall neglect or refuse to pay the monies expended for the use of such poor person,

Proceedings when the poor of one place sicken or die in another.

Penalty on overseers neglecting.

How recoverable.

and to take order for relieving and maintaining such poor, or in case of his or her death before notice can be given as aforesaid; shall on request being made neglect or refuse to pay the monies expended in maintaining and burying such poor person, then and in every such case it shall be lawful for any two Justices of the Peace of the county where such poor person was last legally settled, and they are hereby authorised and required upon complaint made to them, to cause all such sums of money as were necessarily expended for the maintenance of such poor person, during the whole time of his or her sickness, and in case he or she dies, for his or her burial, by warrant under their hands and seals, to be directed to some constable of the county respectively, to be levied by distress, and sale of the goods and chattels of the said overseer or overseers of the poor, so neglecting or refusing to be paid to the overseer or overseers of the township or place, where such poor person happened to be sick, or to die, as aforesaid, and the overplus of the monies arising by the sale of such goods, remaining in the constables hands, after the sum of money ordered to be paid, together with the costs of distress are satisfied, shall be restored to the owner or owners of said goods;

if any of the said overseers shall think him, or themselves aggrieved by any sentence of such Justices, or by their refusal to make any order, as is aforesaid, he or they may appeal to the next court for the county where such Justices reside, and not elsewhere, which court is hereby authorised and required to hear, and finally determine the same.

Appeal.

Sec. 27. The father and grand father, and mother and grand mother, and the children of every poor, old, blind, lame, & impotent; person or other poor person, not able to work, being of sufficient ability, shall at their own charge, relieve and maintain every such poor person, as the court at their terms, for the county where such persons reside, shall order and direct, on pain of forfeiting the sum of five dollars, for every month they shall fail therein.

Duties enjoined on fathers mothers and children.

Penalty on neglect. How recoverable.

Sec. 28. Whereas it sometimes happens that men separate themselves without reasonable cause from their wives, and desert their children, and women also desert their children, leaving them a charge upon the said county or place, aforesaid, although such person may have estates which should contribute to the maintenance of such wives or children; it shall and may be lawful for the overseers of the poor of the said township, or place, having first obtained a warrant or

Men deserting their wives. And women their children how to be dealt with.

order from two Justices of said county o place, where such wife or children shall be so left or neglected; to take and seize so much of the goods and chattels and receive so much of the annual rents, and profits of the lands and tenements of such husband, father or mother; as such two Justices shall order and direct, for providing for such wife, and for maintaining and bringing up of such child or children; which warrant or order being confirmed at the next court of Common Pleas for the county; it shall and may be lawful for the said court to make an order, for the overseers to dispose of such goods and chattels, by sale or otherwise, or so much of them for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits, or so much of them as shall be ordered by the said court; of his or her lands and tenements, for the purposes aforesaid, and if no estate real or personal of such husband, father or mother, can be found, wherewith provision may be made, as aforesaid, it shall and may be lawful to, and for the said court for the county to order the payment of such sums as they shall think reasonable, for the maintenance of any wife or children, so neglected, and commit such husband, father or mother, to the common jail, there to remain until he or she comply with the said order, give

security for the performance thereof, or be otherwise discharged by the said court; and on complaint made to any Justice of the peace in any county of any wife or children being so neglected, such Justice shall take security from the husband, father or mother neglecting as aforesaid, for his or her appearance at the next court, there to abide the determination of the said court, and for want of security to commit such person to jail.

Sec. 29. The several fines, forfeitures and penalties, sum and sums of money, imposed or directed to be paid by this law, and not herein otherwise directed to be recovered, the same, and every of them, shall be levied and recovered by distress and sale of the goods and chattels of the delinquent, or offender by warrant under the hand and seal of any one Justice of the county, where the delinquent or offender dwells, or is to be found, and after satisfaction made of the respective forfeitures, fines, penalties, and sums of money, directed to be levied by such warrant as aforesaid, together with such legal charges as shall become due on the recovery thereof, the overplus, if any, to be returned to the owner or owners of such goods and chattels, his or her executors or administrators.

**Fines how
recoverable.**

**Appeals
from Justices to the
court of C.
P. except &c.**

**Whose decision to be
final.**

**Overseers of
the poo how
they may
plead.**

**Judgmt. for
them to re-
cover double
costs.**

Sec. 30. And if any person or persons shall find him or themselves aggrieved with any judgment of the Justices, in pursuance of this act, such person or persons may appeal to the next court of Common Pleas for the county where sentence was given, except in cases of removal, and cases of poor persons becoming chargeable in one place, who are legally settled in another, as is otherwise provided by this law, whose decision in all such cases shall be conclusive.

Sec. 31. If any action shall be brought against any overseer, or other person, who, in his aid, and by his command, shall do any thing concerning his office, he may plead the general issue, and give this law, and any special matter in evidence, and if the plaintiff shall fail in his action, discontinue the same or become nonsuit, he shall pay double costs.

P R A C T I C E.

AN ACT

Giving Remedies in Equity in certain cases.
Passed September 17, 1807.

Sec. 1. In all causes brought before the General or Circuit courts, or before any court of Common Pleas, to recover the forfeiture annexed to any articles of agreement, covenant, or charter party, bond, obligation, or other specialty, or for forfeiture of real estate, upon condition, by deed of mortgage, or bargain and sale with defeazance, (when the forfeiture, breach, or non performance, shall be found by a jury, by the default, or the confession of the defendant, or upon demurrer) the court, before whom the action is, shall make up judgment therein for the plaintiff to recover so much as is due in equity and good conscience; and shall award execution for the same, by writ of Capias ad satisfaciendum, Fieri facias, or other judicial writ, as the case may require.

**Judgt. fee
 what is due
 in equity &
 good consci-
 ence.**

**Execution to
 issue thereon.**

Q q q

AN ACT

Regulating the Practice in the General Court,
and Court of Common Pleas, and for other
purposes.

Passed Sept. 17, 1807.

**Appearance
bail when re-
quired.**

Sec. 1. Appearance bail shall be required in all actions of debt, or on the case, founded upon any writing obligatory, bill, or note in writing, for the payment of money, and in all actions of covenant and detinue. And appearance bail shall also be required in all actions, where an affidavit shall be made and filed by the plaintiff, or any person in his behalf, of an existing debt, then due from the defendant to the plaintiff; which affidavit shall be made before any judge or commissioner, authorised to take special bail; or any Justice of the Peace in this Territory, or if the plaintiff be out of the Territory, before any Judge of any court of Judicature, or notary public, of the state, kingdom or nation, in which he resides, or happens to be, and the sum specified in such affidavit, obligation, bill or note in writing shall be endorsed, on the writ or process by the plaintiff or his attorney, for which sum, so endorsed, the Sheriff or other officer, to whom such writ or process shall be directed, shall take bail and for no more; and if the party making such affidavit, swear to the best of his knowledge or belief, the same to be deemed sufficient; *Provided always,* That any Judge

**When plff.
may endorse
bail.**

of the general court, or justice of the common pleas, in actions of trespass, assault and battery, trover and conversion, and in actions on the case, whereupon proper affidavit or affirmation, it shall appear to him proper that the defendant or defendants should give appearance bail, may, and he is hereby authorised, to direct such bail to be taken, by endorsement on the original writ, or subsequent process, and the sheriff shall govern himself accordingly.

Sections 2, 3, 4 and 5, are repealed.

*Sec. 6. The person taking such bail as aforesaid, shall, if required at the same time, deliver to the person or persons acknowledging the recognizance aforementioned, a bail piece, in the words and form following to wit:

“ county to wit: C D, of the county of aforesaid, is delivered to bail on a *cepi corpus*, unto E F, of the county aforesaid, at the suit of A B, the day of in the year ”

Sec. 7. No person shall be permitted to be special bail, in any action, unless he be a householder, and resident within this Territory and of sufficient property; if the writ or process issue out of the General court, or if it issue out of any court of Common Pleas, unless he be a householder of sufficient property and resi-

**Bail to be a
householder.**

* *See. 5th section of the Act of 1813 to regulate proceedings in civil cases &c.*

No civil officer to be bail

dent in the county in which such court is held; and no counsellor or attorney at law, sheriff, under sheriff, bailiff, or other person concerned in the execution of process, shall be permitted to be special bail in any action.

Sections 8, 9 & 10, are repealed.

Pleas in abatement to be sworn to.

Sec. 11. No plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require, and no plea of non est factum offered by the person charged as obligor, or grantor of a deed, shall be admitted or received unless the truth thereof shall in like manner be proved by oath or affirmation.

An non est factum.

By others than parties upon belief.

Sec. 12. And where any person, other than the obligor shall be defendant, such defendant shall prove by oath or affirmation that he or she verily believes, that the deed on which the action is founded, is not the deed of the person charged, as the obligor or grantor thereof, in which last mentioned case, the plea of non est factum, shall not be admitted or received, without such oath or affirmation, and where a plea in abatement shall upon argument be found insufficient, the plaintiff shall recover full costs, to the time of over ruling such plea, a lawyers fee excepted.

Pleas in abatement, over ruled plaintiff to recover costs.

Sec. 13. The plaintiff, in replevin, and the defendant in all other actions may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

Sec. 14. The clerk shall proportion the causes upon the docket, from the first day of the court to the *twentieth both inclusive, if in his opinion so many days will be expended in trying the causes ready for trial, and issue subpoenas for witnesses to attend the days, to which the causes stand for trial; he shall docket the causes in order as they are put to issue, and no cause shall be removed from its place, on the docket, unless where the plaintiff at the calling of the same, shall be unprepared for trial, in which case, and in no other, shall the cause be put at the end of the docket.

**Clk. to ap-
portion and
docket cause**

**Causes not
ready, where
put.**

Sec. 15. All actions of trespass quare clausum fregit, all actions of trespass, detinue, actions sur trover, and replevin for taking away goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandize, between merchant and merchant, their factors or servants; all actions of debt grounded upon any lending or contract, without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding and imprisonment, or any of them which shall be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after; that is to say; the said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass, debt, detinue and replevin, for goods and chattels, and the said actions of trespass quare clausum fregit, within five years next after the cause of such action or suit, and not after; and the said actions of

**Limitation
of actions.**

**In case of
debt.**

Trespass.

* *This is altered by act of 1814.*

Slander.

trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the cause of such action or suits, and not after; and the said action upon the case for words, within one year next after the words spoken, and not after.

Pitff. assign breaches.**Jury to inquire & assess damages.****Judgt. remain as security.****Sci. fa. to issue.**

Sec. 16. In all actions upon any bond, or any penal sum for non performance of covenants or agreements, in any indenture, deed or writing contained, the plaintiff or plaintiffs, may assign as many breaches, as he or they may think fit; and the jury upon the trial of such action or actions, shall and may assess damages for such of the breaches as the plaintiff shall prove to have been broken, and on such verdict, the like judgment shall be entered, as heretofore has usually been done; and where judgment on a demurrer, or by confession, or nihil dicit, shall be given for the plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a jury shall be summoned to enquire of the truth of every one of those breaches, and to assess the damage the plaintiff shall have sustained thereby, and execution shall issue for so much, and the judgment shall remain as a security to the plaintiff his executors and administrators, for any other breaches which may afterwards happen, and he or they may have a scire facias against the defendant, and assign any other breach and thereupon damages shall be assessed, and execution issue as aforesaid; and in all actions which may be brought upon any bond or bonds for the payment of money, wherein the plaintiff shall recover, judgment

shall be entered for the penalty of such bond, to be discharged by the payment of the principal and interest due thereon and the costs of suit, and execution shall issue accordingly; or if before judgment, the defendant shall bring into court, the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only.

**How judgt.
to be enter'd**

**Money may
be paid into
court.**

And in any action of debt on single bill, or in debt, or scire facias upon a judgment, or in debt upon bond, if before action brought, the defendant hath paid the principal and interest due by the defeazance or condition, he may plead payment in bar.

**Deft. may
plead paymt**

Sec. 17. If two or more dealing together, be indebted to each other, upon bonds, bills, bargains, promises, accounts or the like; and one of them commence an action in any court, if the defendant cannot gainsay the deed, bargain or assumption upon which he is sued; it shall be lawful for such defendant to plead payment of all, or part of the debt, or sum demanded, and give any bond, bill, receipt, account or bargain in evidence; and if it shall appear that the defendant hath fully paid or satisfied the debt, or sum demanded, the jury shall find for the defendant, and judgment shall be entered, that the plaintiff shall take nothing by his writ, and shall pay the costs. And if it shall appear that any part of the sum demanded, be paid, then so much as is found to be paid, shall be defalked, and the plaintiff shall have judgment for the residue only, with costs of suit; but if

**Special mat-
ter in evid.**

**Jury find for
deft.**

**For pliff.
when paid**

it appear to the jury that the plaintiff is overpaid then they shall give in their verdict for the defendant, and withal certify to the court how much they find the plaintiff be indebted, or in arrears to the defendant, more than will answer the debt or sum demanded; and the sum or sums so certified, shall be recorded with the verdict, and shall be deemed as a debt of record, and if the plaintiff refuses to pay the same, the defendant for the recovery thereof, shall have a scire facias against the plaintiff in the said action, and have execution for the same with the costs of that action.

**Judgt. to be
given thereon
Sci. fa. to
issue.**

**When plff.
shall not re-
cover costs.**

Sec. 18. *Provided always*, That in all cases where a tender shall be made, and full payment be offered, by discount or otherwise, in such specie as the party by contract or agreement ought to do; and the party to whom such tender shall be made, doth refuse the same; and yet afterward will sue for the debt or goods so tendered; the plaintiff shall not recover any costs in such suit.

**Interpreters
o be sworn.**

Sec. 19. Interpreters may be sworn truly to interpret when necessary.

Non suit.

Sec. 20. Every person desirous of suffering a non suit on trial, shall be barred therefrom unless he do so before the jury retire from the bar.

New trials.

Sec. 21. Not more than two new trials shall be granted to the same party, in the same cause.

Sec. 22. Any instrument to which, the person making the same, shall affix a scrawl by way of seal, shall be adjudged and holden to be of the same force and obligation, as if it were actually sealed.

Sec. 23. Where there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good, but the defendant may apply to the court to instruct the jury to discharge such faulty count.

In faulty counts, deff. may appeal to court.

Sec. 24. No Negro, Mulatto or Indian shall be a witness except in pleas of the United States against Negroes, Mulattoes or Indians, or in civil pleas, where Negroes, Mulattoes or Indians alone shall be parties.

No negro to be witness except &c.

Sec. 25. Every person other than a Nègro, of whose grand fathers or grand mothers, any one is, or shall have been a Negro, although all his other progenitors, except that descending from a Negro, shall have been White persons, shall be deemed a Mulatto, and so every person who shall have one fourth part or more of Negro blood, shall in like manner be deemed a Mulatto.

When deemed mulatto.

Section 26, has been altered, it is not in force.

Sec. 27. No judgment after a verdict of twelve men, shall be stayed or reversed for any defect, or default in the writ, original or judicial, or for a variance in the writ from the

Amendment & jeofail.

declaration, or other proceedings, or for any mispleadings, insufficient pleadings, discontinuance, misjoining of the issue, or lack of a warrant of attorney, or for the appearance of either party, being under the age of twenty-one years, by attorney, if the verdict be for him, and not to his prejudice, or for not alledging any deed, letters testamentary, or commission of administration to be brought into court, or for omission of the words, 'with force and arms,' or 'against the peace,' or for mistake of the christian name, or surname of either party, sum of money, quantity of merchandize, day, month or year, in the declaration or pleading, (the name, sum, quantity or time, being right in any part of the record or proceeding) or for omission of the averment, 'this he is ready to verify,' or 'this he is ready to verify by the record,' for not alledging 'as appeareth by the record,' or for omitting the averment of any matter, without proving which, the jury ought not to have given such verdict, or for not alledging that the suit or action, is within the jurisdiction of the court, or for any informality in the entering up the judgment by the clerk; neither shall any judgment entered upon confession or by nil dicit, or non sum informatus, be reversed, nor a judgment after enquiry of damages, be stayed or reversed; for any omission or fault, which would not have been a good cause to stay or reverse the judgment, if there had been a verdict.

Demurrer

Sec. 28. When a demurrer shall be joined in any action, the court shall not regard any other defect or imperfection in the writ, re-

turn, declaration or pleading, than what shall be specially alledged in the demurrer as causes thereof, unless something so essential to the action or defence as that judgment according to law and the very right of the cause cannot be given, shall be omitted, and for prevention of delay by arresting judgment and vexatious appeals, the several acts of parliament, commonly called the statute of Jeofails, which were in force and use in England, on the seventh day of February one thousand seven hundred and fifty two, shall be, and are hereby declared to be, for so much thereof as relates to mispleading, jeofail and amendment, in full force in this territory.

7 Feb. 1752.

Sec. 29. Papers read in evidence, though not under seal, may be carried from the bar by the jury.

Jury take papers.

Sec. 30. After an issue joined in an ejectment on the title only, no exception of form or substance, shall be taken to the declaration, in any court whatsoever.

After issue joined no exception.

Sec. 31. If in detinue, the verdict shall omit price or value, the court may at any time award a writ of enquiry, to ascertain the same. If on an issue concerning several things, in one count, in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

Part omitted barred.

Sec. 32. A judgment on confession shall be equal to a release of errors.

Judgt consd' release err's

Battery and slander, no costs in certain cases.

Sec. 33. In all actions of assault and battery, and slander, commenced and prosecuted in the General court, if the jury find under twenty dollars; and in the like actions commenced and prosecuted in any county court, if the jury find under six dollars and sixty-six cents, the plaintiff in either case shall not recover any costs; and in actions of trespass vi et armis, instituted in any court of record within the territory, if the plaintiff shall recover a sum less than five dollars, he shall be allowed to recover two thirds of the costs given by law in such suit, and no more.

Trespass vi et armis.

Section 34, is not in force.

Judge to inspect record.

Sec. 35. The General court shall annually appoint one of the judges thereof to inspect the clerk's office of said court, and to report to the next session of the said court, the condition in which he shall find the papers and records which report shall be recorded.

Section 36, is not in force.

Sec. 37. Execution shall be issued from the General court according to law.

C. g. c. to direct forms.

Sec. 38. The General court shall have power to direct the writs, summonses, process, forms and modes of proceedings to be issued, observed and pursued by the said General court.

Sec. 39. In appeals and writs of error, the following rules shall be observed:

No appeal shall be granted from the judgment, or decree of an inferior court, to the General court, unless such judgment or decree be final; and amount, exclusive of costs, to fifty dollars, or relate to a franchise or freehold.

When no appeal from inferior to superior court.

Every appeal shall be prayed at the time of rendering the judgment, sentence or decree.

Appeal when prayed for.

The person appealing shall, by himself or a responsible person on his behalf, in the office of the clerk of the court from whence the appeal is prayed, give bond and sufficient security to be approved by the court, and within a time to be fixed by the court, to the appellee for the due prosecution of the appeal; the penalty of the said bond shall be in a reasonable sum, in the discretion of the court.

Appellant to give bond.

It shall be the duty of the appellant to lodge an authenticated copy of the record in the clerks office of the General court before the expiration of the next succeeding term thereof: *Provided*, There be thirty days between the time of making such appeal, and the commencement of said term: and if there be not thirty days between the making of the appeal, and the sitting of the first term of the General court, then the record shall be lodged as aforesaid, at or before the commencement of the second term of said court, or else it shall stand dismissed, unless further time shall be granted by the court, before the end of the term, to which the same shall have been returned.

When record to be lodged in office.

If the judgment or decree be affirmed in the whole, the appellant shall pay to the appel-

10 per ct. to affirm jdm't.

lee, a sum not exceeding ten per centum at the discretion of the court, on the sum due thereby, besides the costs upon the original suit and appeal.

Judgt. reversed appellant pay costs

If the judgment, or decree, shall be reversed in the whole, the appellee shall pay to the appellant, such costs as the court, in their discretion may award.

Reversed & affirmed in part c. to apportion costs

Where the judgment or decree, shall be reversed in part, and affirmed in part the costs of the original suit and appeal, shall be apportioned between the appellant and appellee, in the discretion of the court.

The General court, shall, in case of a partial reversal, give such judgment or decree, as the inferior court ought to have given.

Ct may issue exon. or remand cause.

On appeals or writs of error, it shall be lawful for the General court, to issue execution, or remit the cause to the inferior court, in order that an execution may be there issued, or that other proceedings may be had thereupon.

Writ of error not a supersedeas unless &c.

No writ of error shall be a supersedeas, unless the General court, or some Judge thereof in vacation (as the case may be) after inspecting a copy of the record, shall order the same to be made a supersedeas, in which case, the clerk issuing the said writ, shall endorse on the said writ of error, "that it shall be a supersedeas, and it shall be obeyed as such accordingly;" and it shall also be necessary before a writ of error shall operate as a supersedeas, that bond, to be approved by the clerk of the

court issuing the said writ, shall be given in the same manner, and under the like penalty as in cases of appeals.

And the plaintiff in error, shall lodge an authenticated copy of the record, under the same regulations, and the parties in error shall be subject to the same judgment and mode of execution as is already directed in the case of appeals.

**Plaintiff to
file record.**

A writ of error shall not be brought after the expiration of five years from the passing of the judgment complained of; but where a person thinking himself aggrieved by any decree or judgment which may be reversed in the General court, shall be an infant, *femme covert*, *non compos mentis* or imprisoned when the same was passed, the time of such disability, shall be excluded from the computation of the said five years.

**No writ of
error after 5
years unless
&c.**

Whenever the said General court shall be divided in opinion, on hearing any appeal or writ of error, the judgment or decree appealed from shall be affirmed.

**On division
of court.**

Sec. 40. The Clerk of the General court shall carefully preserve the transcript of records certified to his court, with the bonds for prosecution, and all papers relating to them, and other suits depending therein, docketing them in the order he receives them, that they may be heard in the same course; unless the court for good cause to them shewn direct any to be heard in the same course; unless the court for every day during the term, shall be drawn at

**Clk. to pre-
serve records**

Draw up proceedings to be signed by judge.

Make complete record

Process in name of clk.

**Crts. of C. P. to grant de-
dimus's**

Party to give notice.

One or more defts. in the same process & officer can not find part he shall take those he can find & make a special return thereof.

full length by the clerk, against the next sitting of the court, and such corrections as are necessary, being made therein, they shall be signed by the presiding Judge; when any cause shall be finally determined, the clerk shall make a complete record thereof; and all writs, processes and summonses, issuing from the general court, shall be signed by the clerk of the same, shall bear teste in his name, and be dated on the days, on which they issue.

Sec. 41. For good cause the general court and courts of Common Pleas, or any judge thereof may grant commissions for the examination of witnesses; and the Clerks of the said courts, when any witness is about to depart from the said territory, or shall by age sickness or otherwise, be unable to attend the court, or where the claim or defence of any party, or a material part thereof, shall depend on a single witness, may upon affidavit thereof, issue a commission for taking the deposition of such witness, "*de bene esse*," to be read as evidence at the trial in case the witness be then unable to attend; but the party obtaining such commission shall give reasonable notice to the other party, of the time and place of taking the deposition.

Sec. 42. If any plaintiff or plaintiffs, shall sue out any writ of *capias ad respondendum* or summons against two or more defendants, directed to the Sheriff or Coroner of the proper county, or to elisors, as the case may require; and the said Sheriff, Coroner or elisors, cannot find each of the defendants named in the said writ of *capias ad respondendum*, or summons

within his or their bailiwick, it shall be the duty of the said Sheriff, Coroner, or elisors, to serve the said *capias* or summons, on as many of the said defendants as may be found in his or their bailiwick, either by taking their bodies or by delivering to them copies of such process, as the case may require; and the said sheriff, coroner, or elisors, shall make return of such process, by endorsing thereon "*cepi corpus*," as to the defendant or "*cepi corpora*," as to the defendants, on whom the same hath been served, in manner aforesaid, and by also endorsing thereon, "*non est inventus*," as to the defendant, or "*non sunt inventi*," as to the defendants, who are not to be found in his or their bailiwick.

Sec. 43. After the *capias* or summons hath been served and returned as aforesaid, the plaintiff or plaintiffs may file a declaration against the defendant or defendants, on whom such service hath been made, (suggesting therein the return endorsed on the said process, as to the said defendant or defendants on whom the same hath not been served,) and may proceed to judgment against the said defendants according to the custom and practice of the courts; and after such judgment hath been obtained, the plaintiff or plaintiffs, may by a writ or writs of *scire facias* cause the defendant or defendants, on whom such process hath not been served, to be made parties to the said judgment; unless such defendant or defendants shew good and sufficient cause, why such judgment should not be entered against him, her or them, and the defendant or defendants, made parties to the judgment as aforesaid

Plff. may declare specially and obtain judgment.

S s s

shall be subject to the same final process, as though he, she or they had been duly served with *mesne* process, and had thereupon appeared and received a declaration and made defence, or suffered a default.

AN ACT

To Regulate Proceedings in civil cases and for other purposes.

Passed December 9th 1813.

**Pltff. to file
declaration
before writ
issues.**

**Copy to be
attached to
declaration**

**Clk. to en-
dorse on de-
claration the
writ.**

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Illinois Territory,* That it shall be the duty of every person suing out a writ to file by himself or agent with the clerk of the proper court a declaration or petition to the court or other statement in writing, containing the true nature of his, her, or their demand or complaint, and if upon any instrument of writing or account such declaration, petition, or statement, shall be accompanied with a copy of such writing or account, whereupon the clerk of the court shall endorse on such declaration, petition or statement or attach thereto an order to the sheriff in the nature of a summons if bail be

not required or a *capias* if bail be required, which said summons or *capias* shall be returnable to the next succeeding court if there be fifteen days between the date thereof and the court, otherwise the said clerk shall make the said summons or *capias* returnable to the second court after the date thereof.

when returnable.

Sec. 2. It shall be the duty of the sheriff to execute each writ on the defendant fifteen days before the term to which it is made returnable, by reading the declaration and summons to the defendant if the defendant does not refuse to hear, but if the defendant refuse to hear him read them it shall be the duty of the sheriff to inform him of the contents of the summons — If upon a *capias* the sheriff shall take the defendant into custody, and read to him the declaration and *capias*. In all cases upon summons and *capiases* it shall be the duty of the sheriff if required to deliver to the defendant a copy of the declaration and sommons, or *capias*, upon the defendant's paying him for copying the same, at the rate of fifteen cents for each hundred words.

when executed.

Summons, how execut'd

Capias, how executed.

Sec. 3. It shall be the duty of the sheriff, to whom such writ of *capias ad respondendum* may be directed, to take the body of the defendant, or defendants & commit him or them to the common jail of the county or to take a bond to himself from the defendant with sufficient surety or sureties conditioned that the defendant or defendants (as the case may be) if judgment be given against him or them, shall pay and satisfy the costs and condemnation of the court or surrender his, her, or their body or bodies in ex-

Shff. take special bail.

Return bail bond.

Insufficient bail.

When exception to bail must be made.

No person held to bail out of his co. except &c.

How dischd.

Suit not dismissed thereby.

Sheriffs remedy against bail.

ecution for the same or that the surety or sureties will do it for him or them, which bond the sheriff shall return together with the writ on the first day of the term to which the writ is returnable: And if the sheriff does not return a bail bond, or the bail returned be adjudged insufficient by the court, and the defendant or defendants shall fail to perfect, his, her, or their bail instanter, if ruled to perfect bail, the sheriff shall be made a Co-defendant and be entitled to the same rights, and liable to the same judgment that he would have been if he had been made defendant by the writ: *Provided*, That all questions concerning the sufficiency of bail shall be made and determined at the court to which the writ is returnable: *And provided also*, That in civil cases no person shall be held to bail in a county in which he does not reside if he be a resident of the territory — And if any such person shall be arrested and imprisoned or held to bail in a civil cause, he, she, or they may be discharged from his, her, or their arrest or imprisonment or bail, upon habeas corpus issued by a Judge of the General court, or court of Common Pleas unless the plaintiff can show to the Judge that the debt was contracted to be paid in the county where the arrest is made, or that the defendant or defendants are removing from the territory; in case he, she, or they, be discharged by the Judge as aforesaid, the suit shall progress in the same manner as if bail was not required.

Sec. 4. In all cases where the bail shall be adjudged insufficient and judgment shall be obtained against the sheriff, he shall have the

same remedy against the estate of the bail as against the estate of the defendant.

Sec. 5. Persons who may hereafter become bound in a bail bond as aforesaid may surrender the defendant or defendants in the same manner as by law the special bail heretofore had a right to do. If the bail wishes to surrender the defendant before the return of the writ, he may apply to the sheriff for a bail piece who is hereby authorised and required to grant the same upon the application of the bail or his agent, and after the return of the writ it shall be the duty of the clerk of the court into which the writ is return'd to grant a bail piece upon the application of the bail or his agent whenever applied for, which bail piece so as aforesaid granted whether by the sheriff or clerk shall be a sufficient authority to the bail to arrest the defendant and surrender him in custody in discharge of his recognizance.

Bail may surrender principal.

Of whom to get a bail piece.

Force of bail piece.

Sec. 6. It shall be the duty of the defendant or defendants to file his or their plea on or before the end of the third day of the term to which the writ is returnable and if any part of the pleadings are adjudged bad, immaterial or insufficient the party shall be required to plead to the merits instant — If the defendant fails to file his plea as aforesaid the plaintiff may on the fourth or any subsequent day of the term or any other term sign judgment on the records of the court for want of a plea and take out a writ of enquiry to the * next suc-

When plea filed.

If deff. does not file his plea in time what.

* *Que. Is not this repealed by act of 1814 which directs the cause to be tried at the term to which the writ is returnable?*

**Court may
calculate,
interest &
render judg-
ment.**

ceeding term in all cases where the damages claimed are unliquidated — but in all cases where the demand is liquidated and reduced to writing for the payment of money the court shall at the first term upon a judgment by default calculate the interest and confirm the judgment for the principal and interest really due and execution may issue thereon as on other judgments.

Section 7. Repealed.

**Notes of
hand &c. to
be denied on
oath.**

Sec. 8. Whenever any suit shall be brought in any court of this territory founded on any writing signed by the defendant or having his name thereunto signed whether the same be under seal or not the defendant shall not be permitted to deny the execution thereof unless he does it on oath accompanying his plea — And if the defendant fails to deny it on oath in manner aforesaid, the said instrument of writing shall be received by the court and given in evidence & be competent to prove the debt or duty for which it may appear to have been given — And the defendant shall be entitled to have oyer of all instruments of writing whether under seal or not upon which the plaintiff declares in his declaration.

**Oyer de-
mandable.**

**Arrest of
judgment.**

Sec. 9. Where a judgment is arrested the plaintiff shall not be obliged to bring a new suit, *Provided* the first declaration and writ be sufficient, but the court may order new pleadings, to commence where the error causing the arrest began — and when a judgment is arrested the party committing the error shall pay the costs occasioned thereby.

Sec. 10. No court of common pleas shall have original jurisdiction of any suit cognizable by a justice of the peace in this territory.

**Jurisdiction
of com. pleas**

Sec. 11. No plaintiff shall suffer a nonsuit after the jury have retired from the bar to make up their verdict.

Nonsuit.

AN ACT

To amend an act entitled "An act to regulate proceedings in civil cases and for other purposes."

Passed December 24th 1814.

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same.* That so much of the act, "entitled an act to regulate proceedings in civil case and for other purposes" as permits either party to continue the suit at the first court, without showing cause, shall be and the same is hereby repealed and all causes shall be tried at the first court, unless good cause shall be showed for a continuance.

**Suits to be
tried at the
first term.**

Sec. 2. The clerks in making out the court dockets shall arrange and apportion the suits at

Clerk to apportion the suits putting the chancery causes cost.

law as heretofore, but shall put all the chancery causes at the end of the common law issues, in the order they were set for hearing; and the courts shall proceed to take up the business in order, as it stands upon the docket, and go through the same. *Provided always* that any chancery cause may be taken up by consent of parties, when the court may have leisure to hear the same, any law, custom or usage to the contrary notwithstanding.

Motion for continuance.

Sec. 3. That in every motion for the continuance of a cause founded upon the absence of a witness or witnesses the party making the same shall exhibit and file a written affidavit, in which he or she shall distinctly set forth what he or she expects to prove by said absent witness or witnesses, and if the court should not think the facts so set forth in such affidavit material or relevant to the point in issue or if the adverse party will admit the same, the cause shall not be continued upon the grounds or for the causes set forth in said affidavit, *Provided* always that nothing herein shall be construed to dispense with the duty of any party to have used due diligence in procuring his or her testimony.

Proviso.

AN ACT

*Concerning certioraries.**Passed Dec. 19, 1814.*

Sec. 1. Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same; That no writ of certiorari shall hereafter be to remove the proceedings had in any civil cause before any single Justice of the Peace in this Territory. And all such causes now pending on any writ of certiorari in any Court of this Territory should the proceedings, and judgment of said justice therein be reversed, for errors therein, then the party in whose favour the judgment before the Justice of the Peace was given, shall pay the costs of the removal, and also, of the reversal of said judgment,; and the said Court that shall or may reverse said judgment shall at the same term of the reversal, order an issue on the merits of said cause to be made up instanter, and the case shall then proceed as other cases to final judgment an execution.

No certiorari to remove the judgt. of a Justice of the Peace.

Sec. 2. Be it further enacted, That on all judgments that have been or may be rendered by Justices of the Peace, the party, against whom such judgment shall be rendered, may appeal therefrom at any time within thirty days after the rendition of such judgment, any law to the contrary notwithstanding.

Appeal allowed

T T T

In addition to an act, entitled "An act regulating the Practice in the General Court, and Courts of Common Pleas, and for other purposes."

Passed October 25th 1808.

Suits not to be removed from inferior to superior court after issue joined.

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same,* That no suit, action, or plaint now depending, or which may hereafter be brought in any inferior court of record in this territory, shall be removed by an habeas corpus, or certiorari, to the Genaeral court, or other superior court, after issue joined, in the court in which the said cause was commenced; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Sections 2, 3, & 4. are not in force.

No declaration necessary on sci fa. to revive or foreclose

Sec. 5. *Be it further enacted,* That no declaration shall hereafter be considered deemed or taken as necessary to be filed in any *scire facias*, to revive a judgment, or foreclose a mortgage, in any court of record in this territory, any law, usage or custom to the contrary in any wise notwithstanding.

AN ACT

Supplemental to an act, entitled "An Act regulating the Practice in the General Court, and Courts of Common Pleas and for other purposes.

Passed Oct. 22, 1808.

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same,* That no suit shall hereafter be commenced in any court in this territory, by any person who is non-resident, or who is not a freeholder in said territory, until he shall file in the Clerk's office, a bond with security, who shall be a freeholder, and resident in the territory, conditioned for the payment of all costs that may accrue in consequence thereof, either to the opposite party, or to any of the officers of such courts; which bond shall be in the form or to the purport following.

**Non reside
to give re
dent securi
for costs.**

"
In the County, }
court } sct.
A.B. }
vs }
C.D. }

**Form of
bond.**

Note, the first section of this law is in effect repealed by act of 1812, that act refers to and recognises the form of the bond.

I do hereby enter myself security for costs in the above cause, agreeably to the laws of the territory, the day of .”

**Clerk may
issue fee bills
and sheriff
shall collect.**

Sec. 2. *And be it further enacted,* That in all cases where security for costs hereafter shall be entered, it shall be lawful for the Clerk to issue fee bills against such security for costs, in the same manner and at the same time, as fee bills are by the laws of the territory directed to be issued: and it shall be the duty of the Sheriff to levy, collect, and receive, and pay over the amount of such fee bills at the several times, and in the manner in the said laws mentioned, under the pains and penalties in the same laws also mentioned.

This act to be in force from the passage thereof.

AN ACT

Supplemental to an act regulating the practice of the General Court and common Pleas and for other purposes.

Passed Dec. 25, 1812.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same. That no suit shall hereafter be commenced in this territory by any person who is a non-resident or not a free holder therein until he shall file in the clerks office a bond with sufficient security, who shall be a house holder and resident of the territory or free holder therein conditioned for the payment of all costs that may accrue in consequence thereof either to the opposite party or to the officers of such courts which bond shall be in the form or to the purport as are set fourth in the laws of the territory now in force.

**Non residents to give
surety for
costs**

Sections 2 & 3, are not in force. This act took effect January 31st, 1813.

AN ACT

*Concerning Frauds.**Passed Dec. 25, 1812.*

**An action on
the case may
be brought
for fraud**

**Plff may file
interrogative.**

**Defendant
may file in
terrogatories
in case of
fraud**

**Failing to or
answering
evasively a
contempt**

Sec. 1. Be it enacted by the Legislative Council, & House of Representatives, & it is hereby enacted by the authority aforesaid, That an action on the case may be brought for any fraud whatsoever, that the plaintiff in any such suit at the time of filing his or her declaration may file written interrogatories which it shall be the duty of the defendant to answer in writing which shall be filed at the time he or she files his or her plea.

Sec. 2. *Be it further enacted by the authority aforesaid,* That the defendant in all cases wherein he may suggest fraud in the demand of the plaintiff, shall have a right to file written interrogatories which the plaintiff shall answer in writing, and file at the time he may be required to file his replication or one month after issue joined, if no replication shall be necessary.

Sec. 3. *Be it further enacted,* That every answer shall be full and specific to all and every interrogatory that may be exhibited; failing to answer, or answering evasively shall be considered as an acknowledgment of the fact required to be answered, and also a contempt to the court; every person answering interrogatories exhibited shall swear that his her or

their answer contains the truth, and nothing but the truth to the best of their knowledge, and if he she or they shall swear falsely therein, he she or they so offending shall be deemed guilty of perjury.

**Swearing
falsly deemed
perjury**

Sec. 4. *Be it further enacted by the authority aforesaid,* That all interrogatories and answers required to be filed by this act shall be laid before the jury at the trial, who shall be judges of the truth of the allegations they contain, or the facts they suggest, and if they find from the answer of the plaintiff in any case that fraud has taken place they may make such deductions from his demand as they may think right and in all cases when it shall appear that fraud has been practised on the plaintiff, they shall allow him such damages as they may think just and right.

**Answers &
interrogato-
ries to be
laid before
jury who
may make
deductions
for defendant
& allowing
plaintiff dam-
ages**

Sec. 5. *Be it enacted by the authority aforesaid,* That this act shall be considered a remedial one to all intents and purposes whatever, and that it shall be and continue to be in force from and after the passage thereof.

**This law a
remidial one**

AN ACT

*Concerning Debtors and their Securities, and
to empower Securities to recover damages
in a summary way.*

Passed Sept. 17, 1807.

**Securities ap
prehensive of
insolvency or
absconding
of principal**

Sec. 1. When any person or persons shall hereafter become bound as security or securities, by bond, bill or note, for the payment of money or other property, shall apprehend that his or their principal debtor or debtors, is or are likely to become insolvent, or to migrate from this Territory without previously discharging such bond, bill or note, so that it will be impossible or extremely difficult for such security or securities, after being compelled to pay the money or other property, due by such bond, bill or note, to recover the same back from such principal debtor or debtors it shall and may be lawful for such security or securities in every such case, provided an action shall have accrued on such bond, bill or note, to require by notice in writing, of his, her or their creditor or creditors, or his or their assignee, forthwith to put the bond, bill or note by which he, she or they may be bound as security or securities as aforesaid in suit; and unless such creditor or creditors, or assignee so required to put such bond, bill or note in suit, shall in a reasonable time commence an action on such bond, bill or note, and proceed with due diligence in the ordinary course of law to recover a judgment for,

**If debt due
notify credit
or**

and by execution to make the amount due by such bond, bill or note. The creditor or creditors, or assignee, so failing to comply with the requisitions of such security or securities, shall thereby forfeit the right which he or they otherwise have to demand and receive of such security or securities, the amount which may be due by such bond, bill or note.

**Failing to
prosecute &c.**

**No recourse
on security.**

Sec. 2. Any security or securities, or in case of his, her or their death, then his or their heirs executors or administrators may in like manner, and for the same cause make such requisitions of the executors, or administrators or assignee of the creditor or creditors of such security or securities as it is herein before enacted may be made by a security or securities of his or their creditor or creditors, and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid, being duly made, the security or securities, his, or their executors or administrators making the same, shall have the same relief, that is herein before provided for a security or securities, when his or their creditors shall be guilty of a similar failure.

**Securities or
reprtvs. may
proceed in
regard to the
representa
tives of cre
ditor.**

Sec. 3. *Provided always*, That nothing in this act contained, shall be so construed as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, administrators or public officers.

**The rights &
re of
principal not
aff d by
this act.**

Sec. 4. *And provided also*, That the rights and remedies of any creditor or creditors

against any principal debtor or debtors shall be in no wise affected by this act, any thing herein to the contrary, or seeming to the contrary notwithstanding.

Securities having paid money &c.

May obtain judgt. by motion.

Sec. 5. In all cases where Judgment hath been, or shall hereafter be entered up in any of the courts of record within this territory, against any person or persons as security or securities, their heirs executors or administrators, upon any note, bill, bond or obligation, and the amount of such judgment or any part thereof hath been paid or discharged by such security or securities, his her or their heirs, executors or administrators, it shall and may be lawful for such security, or securities, his, her or their heirs executors or administrators to obtain judgment by motion, against such principal, obligor or obligors, his, her, or their heirs, executors or administrators for the full amount of what shall have been paid with interest, by the security or securities, his, her or their heirs, executors or administrators, in any court where such judgment may have been entered up against such security, or securities, his, her or their heirs, executors or administrators.

Joint securities in cases of insolvency of principal.

Sec. 6. Where the principal obligor or obligors, have or shall hereafter become insolvent, and there have been, or shall be two or more securities, jointly bound with the said principal obligor or obligors, in any bond, bill, note, or other obligation, for the payment of money, or other things, and judgment hath been or hereafter shall be obtained, against one or more of such securities; it shall and may be lawful for

the court, before whom such judgment was, or shall be obtained upon the motion of the party or parties, against whom judgment hath been entered up as securities as aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt, with the damages and costs of the former suit.

**By direction
of court.**

**Shall pay
qually.**

Sec. 7. No security or securities, his, her or their heirs executors or administrators shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her or their principal or principals, if such principal or principals, will enter him her or themselves a defendant or defendants to the suit, and tender to the said security or securities, his, her or their heirs executors or administrators, other good and sufficient collateral security to be approved of by the court, before whom the suit shall be depending.

**Securities
shall not con-
fess or suffer
judgt. by de-
f u t if prin-
cipal will en-
ter deff. &c.**

Sec. 8. In all cases where judgment hath been or hereafter shall be entered up in any of the courts of record in this territory, against any person as appearance or special bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment, or any part thereof, hath been paid or discharged by such bail, his, her, or their heirs, executors or administrators; it shall and may be lawful for such bail, his, her, or their heirs, executors or administrators, to obtain judgment by motion against the person or persons, for whose appearance they were bound, his, her, or their heirs, executors or adminis-

**Bail having
paid mone
may have
judgt. there
for.**

**Against p
cipal &c.**

**In the pro-
per county.**

trators, for the full amount of what may have been paid by the said bail, his, her, or their heirs, executors or administrators, together with interest and costs, in any court where judgment may have been entered up against such appearance or special bail.

**Party to be
notified of
the applica-
tion.**

Sec. 9. *Provided always*, That no judgment shall be obtained by motion in any of the cases aforesaid, unless the party or parties, against whom the same is prayed, shall have ten days previous notice thereof.

PRISON & PRISON BOUNDS.

AN ACT

Regulating Prisons, and Prison bounds.

Passed September 17, 1807.

Sec. 1. The several courts of Common Pleas within this Territory, shall lay off and

assign by metes and bounds, around and adjoining each county jail, a certain and determinate space of land, to be termed prison bounds: *Provided*, That such prison bounds in no instance, extend in any direction from said jail more than two hundred yards, which prison bounds when fixed and assigned, shall be recorded amongst the public records of said courts, a copy of which shall be delivered to the jailor, to be by him fixed up in some conspicuous place in the debtors room, for the government of such of them, as shall be entitled to the benefit of such prison bounds.

Sec. 2. Any person imprisoned for debt either upon *mesne* process or an execution, shall be permitted and allowed, the privilege and benefit of the prison bounds, but in no instance to pass over or without said limits: *Provided*, That such prisoner before he shall be entitled to such privilege, shall give bond with sufficient surety or sureties, living within the county, to the creditor or creditors, in double the sum for which such prisoner stands committed, conditioned, that from the executing such bond he or she will continue a true prisoner, in the custody of the jailor, or prison keeper, and within the limits of the said prison bounds, until discharged by law, without committing any manner of escape; and in order to prevent any oppression under pretence of the surety or sureties being insufficient, two disinterested Justices of the Peace for said county, shall be called to approve of the surety or sureties, and the same being approved of by them shall be deemed sufficient, and if the creditor or creditors, shall refuse to take and

Courts to lay out prison bounds, and recorded copies in debtors room.

Debtors allowed benefit of bounds

Giving bond and security in double the debt for keeping with in the bounds

Two justices of the peace to approve of the sureties.

**If bonds for
feited judg
ment to be
for penalty
without re
lief.**

accept the bond, the same shall be lodged with the sheriff, to be by him kept, until the creditor, or creditors, shall demand the same; and upon putting such bond in suit, when the condition shall be broken, judgment shall be entered up for the penalty, and no relief in chancery shall be allowed therein.

**Sheriffs sued
for allowing
P. B. may
plead the g.
issue.**

Sec. 3. If any action or suit shall be brought or instituted, against any Sheriff or jailor, for any manner of escape committed by any prisoner, allowed the benefit and privilege of prison bounds, having first given bond as by this law required, such sheriff or jailor shall have the liberty of pleading the general issue, and giving this act in evidence.

**Persons con-
veying tools
&c. into any
prison, where
by prisoners
might break
out.**

Sec. 4. If any person or persons shall directly or indirectly, by any way or means howsoever, without the knowledge or privity of the keeper, convey any instrument, tool, or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison, or work himself, or herself unlawfully out of the same, every person so offending, shall forfeit and pay, such fine, as by the direction of the court shall be imposed, not exceeding one hundred dollars, according to the nature of the cause of the prisoners commitment, or suffer such corporeal punishment, not exceeding forty stripes, as the court shall inflict, and if it shall so happen that the prisoner shall make his or her escape, by means of any instrument, tool, or other thing so conveyed, without the knowledge and privity of the keeper, the person so conveying the same, shall be liable to pay all such sums of money as the

**To be fined
or whipped**

**If prisoners
actually es-
cape the per-
sons so con-
veying tools
&c. to what
punishment
liable**

prisoner stood committed for, if on civil process, and shall also have inflicted on him or her, all such punishment, as the escaped prisoner would be liable unto if a criminal and had been convicted of the charge for which he or she had been committed, unless such prisoner would be liable to capital punishment, in which case, the person assisting in such escape, shall be punished by fine, imprisonment, whipping, pillory, or setting on the gallows with a rope about his or her neck, or any one or more of said punishments, as the court having cognizance thereof shall think proper to inflict.

Sec. 5. If any jailor or prison keeper, shall voluntarily suffer a prisoner committed unto him, to escape, he shall suffer and undergo the like pains, punishments and penalties, as the prisoner so escaping, should, or ought by law to have suffered and undergone for the crime or crimes, wherewith he stood charged, if he had been convicted thereof, and if any jailor or prison keeper, shall through negligence, suffer any prisoner accused of any crime to escape, he shall pay such fine, as the Judges of the court before whom he is convicted, shall in their discretion inflict, according to the nature of the offence, for which the escaped prisoner stood convicted.

Sec. 6. *Provided nevertheless,* That if any person who may be committed for debt, shall violently escape from prison, without connivance of the Sheriff, or keeper, and the sheriff, jailor or prison keeper, shall within three months, next after such escape, recover the prisoner so escaped, and re-commit him to

Jailor suffering voluntary escape of prisoners punishment of

Suffering negligent escape punishment of

On violent escape of prisoner for debt

prison again, then the sheriff shall be liable to nothing further than the costs of such action or actions, as may have been commenced against him for such escape.

**Warrants &c.
to be regularly
filed in
a box provided
by the
jailor**

Sec. 7. All warrants, mittimusses, writs and instruments of writing of any kind, or the attested copies of them, by which any prisoner may be committed, enlarged or liberated, shall be safely kept (regularly filed in their order of time) in a suitable box for the purpose, provided by the keeper of the jail, under the sheriff's direction, and upon the death, or removal of any sheriff, the box, with the contents thereof, shall be delivered to his successor in office, under the penalty of one hundred and fifty dollars, to be paid by the Sheriff removed, or his executors or administrators, in case of the death of the Sheriff, to be recovered by any person who shall prosecute therefor to effect, in any court having jurisdiction to try the same.

**Judges of
C P to en-
quire into the
state of pris-
ons etc.**

Sec. 8. It shall be the duty of the Judges at the beginning of every court of Common Pleas, to enquire into the state of the prisons in their respective counties, with regard to the sufficiency of such prisons, the condition and accommodation of the prisoners, and shall from time to time, take such legal measures, as may best tend to secure the prisoners from escape, sickness and infection, and to have the jails cleansed from filth and vermin.

**Seperate
rooms for
the sexes.**

Sec. 9 The Sheriffs shall keep separate rooms for the sexes, except where they are lawfully married, and be responsible that his jailor at all

times provide proper meat and drink, for all criminals committed to the prison of the county, if such prisoners have no other convenient way of supplying themselves with provisions, which shall always pass to them through the keepers hands, and in every case when the Sheriff or jailor shall be at the expense of furnishing meat, drink or fire-wood, to a prisoner in jail for a crime or at the suit of the United States, who is not of sufficient ability in point of property, to re-pay or indemnify such Sheriff or jailor, their reasonable expense and charges for supplying such prisoner; in every such case the sheriff or jailor shall make out his account thereof, and on oath shall testify the truth of the same before the judges of the court of Common Pleas, who shall tax the same as they shall think just and reasonable, and lay the amount thereof in the yearly estimate of the county charges.

Sheriff to provide meat &c. to certain criminals.

Sheriff is to make out his account on oath.

Sec. 10. In every case, where any person is committed to prison in a civil action, either on *mense process*, or an execution for debt, trespass, slander, or other cause of action, at the suit of one citizen against another, or at the suit of an alien against a citizen, or at the suit of a citizen against an alien ally, in every such case, it shall be the duty of the sheriff to provide only the daily bread and water of such prisoner, and he is hereby directed to furnish the same regularly to every such prisoner, who is not of sufficient ability in point of property, to provide for his or her own support, while in prison, and the expense and charges occur-

Certain persons on civil process to be furnished by sheriff with bread & water.

sheriffs remedy for recovery of costs and charges for keeping such prisoner

Prisoners right to furnish themselves with necessities.

Fines to the use of the county.

How recovered

To whom paid.

ring to the sheriff or jailor, herein, shall be repaid to him by the prisoner, so soon as the prisoner shall be liberated from the jail; for the recovery of which the sheriff or jailer shall have his action at law, against the prisoner, in any court where the same may be cognizable, and when any prisoner shall be committed to jail in a civil action as aforesaid, and shall provide for his or her own support, in a way wherein the sheriff or jailor, shall have no concern, it shall be the duty of the jailor or prison keeper to admit to the wicket grate, or small window of the prison, in which such prisoner shall be confined, any person who may come to administer to the wants of such prisoner, by furnishing him or her with meat and drink, which shall be conveyed through such small window or grate, that the security of the prison be not too frequently exposed by opening the doors thereof.

Sec. 11. All fines and penalties, arising upon the breach of this act, shall be for the use of the county, where the offence is committed or the duty neglected; and the same remedy shall be had for the recovery thereof as in other cases where duties are enjoined by statute and no particular mode of prosecution directed, in case of default, it shall be the duty of the attorney prosecuting the pleas of the United States to prosecute for the same either by writ or indictment and the fine when recovered shall be paid to the sheriff or treasurer for the use of the county.

AN ACT

*To authorise the guarding of county Jails.
Adopted from the Kentucky Code.*

Passed July 22 1809.

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same, That if for want of a sufficient Jail in any county in which a general court is held, it shall be necessary to impress or hire guards for the safe keeping of any prisoner in the said Jail. The general court or a Judge thereof in vacation shall have full power and authority to order the Jailor to impress or hire such guards and the said court shall certify to the county court the amount of the allowance to the said guard, which it shall be the duty of the Justices of the said county court to order to be paid out of the county levy.

**Genl. court
or judge to
order jailor
to procure
guard**

Sec. 2. To prevent doubts concerning what shall be taken to be a sufficient Jail —

Be it further enacted by the authority aforesaid, That when the Judges of the general court shall receive a county Jail for the county, and cause the same to be entered on their records, the county thereafter shall be no longer chargeable for the expence of guards.

**Sufficie
Jail what**

The foregoing is hereby declared to be a law of the territory to take effect and be in force from the date thereof.

P R I V I L E G E.

AN ACT

Defining and regulating Privileges in certain cases.

Passed September 17, 1807.

**Members of
the Legisla-
ture exempt
from arrest**

Sec. 1. The members of the Legislative Council and House of Representatives, and the Secretaries, Clerks, Sergeant at arms, Door-keeper and messengers of either branch of the General assembly, shall be privileged from arrest, during the sitting of the Legislature, or of the branch thereof to which they respectively belong and also during the time necessarily employed in travelling to, and returning from the place of their meeting, allowing one day for every fifteen miles of the distance by the road most usually travelled, and all proceedings in suits pending, in which either of the persons above mentioned is a party shall be stayed during the time aforesaid; and whoever shall arrest either of the persons above mentioned during the time they are entitled to privilege as above provided, shall forfeit and pay for every such offence, the sum of one hundred dollars, to be recovered with costs of suit, by

action of debt, for the use, and in the name of the person injured. - And all persons legally entitled to vote for Representatives to the General Assembly, shall be privileged from arrest during the time of their attendance at elections, and while on the way in going to, and returning from such elections.

Persons arrested liable to a fine

Electors etc.

Sec. 2. The Judges and Clerks of the General Court, and Attorney General, shall be privileged from arrest, while attending at the said court, and for, and during the space of fifteen days next before the commencement, and for and during the space of ten days next after the close of any term thereof, and also during the time necessarily employed in going to, holding, and returning from any general court, circuit court, or court of Oyer and Terminer, or general Jail Delivery, or court of Nisi Prius, in any county with this Territory.

Judges and clerk of the G C

Sec. 3. The Judges of the several courts of Common Pleas within this territory, during the sittings of their respective courts, and during the space of forty eight hours next before the commencement, and during the like space next after the close of any term thereof, and the Justices of the several courts of Common Pleas, of the Peace, during the sitting of the session, and during the space of forty eight hours next before the opening, and next after the close of any session thereof; & the Justices of the Peace, while engaged in hearing and determining any action suit or plaint instituted before them, or either of them, and all Attorneys, Counsellors at law, Clerks, Sheriffs, Coronors, Constables and Cryers, and all

Judges of the C P

Justices of the P S

Attos Clks etc.

suitors, witnesses and jurors, while attending court, and while going to, and returning from court, shall be privileged from arrest.

**Times places
etc. that no
arrest shall be
made**

Sec. 4. No person shall be arrested while doing militia duty under the order of his commanding officer, or while going to, or returning from the place of duty or parade; nor shall any person be arrested on the first day of the week, commonly called Sunday, or in any place of religious worship, during the performance of divine worship; or in the chamber of the Legislative Council or House of Representatives, during their sitting; or in any court of Justice during the sitting of the court; or on the fourth day of the month July, the anniversary of American Independence.

Sec. 5. Nothing herein contained shall be construed to extend to cases of treason, felony or breach of the peace.

Proviso

Provided always, That where either of the members or officers of the general assembly, shall be arrested during the sitting of the legislature upon any charge of treason, felony or breach of the peace, it shall be the duty of the person issuing the process on which the arrest is made, forthwith to give written notice thereof to the house in which the person arrested shall be a member or officer, addressed to the President or Speaker, as the case may be.

**No privilege
in case of
summons**

Sec. 6. Nothing herein contained, shall be construed to privilege any person herein named from being served at any time with a sum-

mons, or notice to appear; and all arrests not contrary to the provisions herein contained, made in any place, or on any river or water course, within or bounding the territory shall be deemed lawful, and if any person shall be arrested contrary to the provisions herein contained, such person may and shall be discharged by a writ of habeas corpus, or in a summary way by motion before the court from which the process shall have issued at the costs of the party suing out such process.

How discharged from arrest

R E C O R D E R.

A LAW

Establishing the Recorder's office, and for other purposes.

Passed Sept. 17, 1807.

Sec. 1. There shall be an office of Record in each and every county; which shall be called and styled the Recorder's Office, and shall be kept in some convenient place, at the county seat of Justice, in the respective counties;

Recorders of fice established,

**Recorders
duties**

and the Recorder shall duly attend the service of the same, and at his own proper costs and charges, shall provide parchment, or good large books of royal, or other large paper, well bound and covered, wherein he shall record, in a fair and legible hand, all deeds, and conveyances, which shall be brought to him for that purpose, according to the true intent and meaning of this law.

**What words
in deed shall
pass a fee &
amount to
certain cov-
enants, on
which gran-
tee may in a-
ny action as
sign breaches**

Sec. 2. All deeds to be recorded in pursuance of this law, whereby any estate of inheritance in fee simple shall hereafter be limited to the grantor and his heirs; the words, grant, bargain, sell, shall be adjudged an express covenant, to the grantee, his heirs and assigns, to wit: That the grantor was seized of an indefeasible estate, in fee simple, freed from incumbrances, done, or suffered from the grantor, except the rents and services that may be reserved; as also for quiet enjoyment against the grantor, his heirs and assigns, unless limited by express words contained in such deed, and that the grantee, his heirs executors and administrators and assigns, may in any action, assign breaches, as if such covenants were expressly inserted: *Provided always*, That this law shall not extend to leases at rack rent, or to leases not exceeding one and twenty years; where the actual possession goes with the lease.

Proviso**Forging ac-
knowledg-
ments etc**

Sec. 3. If any person shall forge any entry of the acknowledgements, certificates, or endorsements, whereby the freehold or inheritance of any man may be charged, he shall be liable to the penalties against forgers of false deeds;

and if any person shall perjure himself in any of the cases herein above mentioned, he shall incur the like penalties as if the oath or affirmation had been in any court of record.

**Punishment
on perjury**

Sec. 4. Every mortgagee of any real or personal estate in this territory, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage, shall at the request of the mortgagor, enter satisfaction upon the margin of the record of such mortgage, recorded in said office, which shall forever thereafter discharge, defeat, and release the same, and shall likewise bar all actions brought, or to be brought thereupon.

**Satisfaction
on mortgages
how to be
entered by
mortgagees.**

Sec. 5. And if such mortgagee, by himself or his attorney, shall not within three months after request, and tender made for his reasonable charges, repair to said office, and there make acknowledgement as aforesaid, he, she, or they, neglecting so to do, shall for every such offence, forfeit and pay unto the party or parties aggrieved, any sum not exceeding the mortgage money - to be recovered in any court of record, by bill, plaint or information.

**Penalty on
mortgagees,
neglect to en-
ter such sat-
isfaction.**

Sec. 6. There shall be appointed a recorder in every county, now or hereafter to be erected. But before any of the recorders enter upon their respective offices, they shall become bound to the Governor and his successors in office, with one or more sufficient sureties, in a for bond fifteen hundred dollars; conditioned for

**Every coun-
ty to have a
recorder,
who shall
give bond.**

the true & faithful execution of his office, and for delivering up the records, and other writings belonging to the said office, whole, safe and undefaced, to his successor in said office. Which said respective bonds, shall be filed in the Secretaries office, and there safely kept, in order to be made use of, for making satisfaction to the parties, that shall be damnified, or aggrieved, as is or shall be in such case directed by law.

Penalty on recorder Officiating otherwise.

Sec. 7. And no recorder whatsoever, now or hereafter appointed, as aforesaid, shall enter upon, or officiate in his said office, before he hath given such security as aforesaid, upon pain of forfeiting the sum of three hundred dollars; one half to the Territory, and the other half to him or them, that shall sue for the same to be recovered as aforesaid.

All deeds &c to be acknowledged and recorded.

Sec. 8. All deeds and conveyances, which shall be made and executed within this Territory, of, or concerning any lands, tenements, or hereditaments therein, or whereby the same may be in any way affected in law or equity shall be acknowledged by one of the grantors, or proved by one or more of the subscribing witnesses to such deed, before one of the Judges of the General court, or before one of the Judges of the court of Common Pleas, or before one of the Justices of the Peace of the county where the land conveyed do lie; and shall be recorded in the recorder's office of the county where such lands or hereditaments are lying and being, within twelve months after the execution of such deeds, or conveyances: and every such deed or or conveyance, that shall at any

time after the publication hereof be made and executed, and which shall not be proved and recorded as aforesaid, shall be adjudged fraudulent, and void against any subsequent purchaser, or mortgagee for valuable consideration; unless such deed or conveyance be recorded as aforesaid before the proving and recording of the deed or conveyance under which such subsequent purchaser or mortgagee, shall claim.

If not recorded within a year may be avoided.

Sec. 9. Where the grantors and witnesses of any deed or conveyance are deceased or cannot be had, it shall and may be lawful to and for the Judges of the General court, or court of common Pleas, or any Justice of the Peace, of the county where the lands lie, to take the examination of any witness, or witnesses, on oath, or affirmation to prove the hand writing of such deceased witness or witnesses; or where such proof cannot be had then to prove the hand writing of the grantor or grantors, which shall be certified by the Judge or Justice before whom such proof shall be made; and such deed or conveyance, being so proved shall be recorded as is usual in other cases, directed above by this law.

How proved where grantors or witnesses are deeds.

Sec. 10. Every recorder shall keep a fair book in which he shall immediately make an entry of every deed or writing brought into his office to be recorded; mentioning therein the date, the parties, and the place where the lands, tenements or hereditaments granted or conveyed by the said deed or writing, are situate; dating the same entry, on the day in which such deed or writing was brought into his office; and

Recorder's duty.

How recovered and by whom.

shall record all such deeds and writings, in regular succession, according to their priority of time in being brought into said office; and shall also immediately give a receipt to the person bringing such deed or writing to be recorded, bearing date on the same day with the entry, and containing the abstract aforesaid; for which entry and receipt he shall take or receive no fee or reward whatever. And if any recorder shall record any deed or writing before another first brought into his office to be recorded; or in any other manner than is herein directed, or shall neglect or refuse to make such an entry, or give such a receipt as is herein before directed; or shall directly or indirectly take or receive any fee, or reward for such entry and receipt, or either of them, he shall forfeit and pay for every such offence a sum not exceeding three hundred nor less than one hundred dollars; one half to the use of the territory, and the other half to him or them, that shall sue for the same, to be recovered in any court of record by action of debt, bill or plaint, wherein no essoin, protection or wager of law or more than one imparlance shall be granted.

How husband and wife may convey real estates

Sec. 11. Where any husband and wife shall hereafter incline to dispose of and convey the estate of the wife, or her right of, in or to any lands, tenements or heriditaments, whatsoever, it shall and may be lawful, to and for the said husband and wife, the wife not being less than twenty one years of age, to make seal, deliver and execute, any grant bargain and sale, lease, release, feoffment, deed, conveyance, or assurance in the law, whatsoever, for the lands ten-

ements, and hereditaments, intended to be by them passed and conveyed; and after such execution to appear before one of the Judges of the General court, or court of Common Pleas, or before a justice of the Peace, of, and for the county, where such lands, tenements and hereditaments shall lie, and to acknowledge the said deed or conveyance, which Judge of the General court, or court of Common Pleas, or Justice of the Peace, shall, and he is hereby authorized and required to take such acknowledgement; in doing whereof he shall examine the wife separate and apart from her husband, and shall read, or otherwise make known the full contents of such deed or conveyance to the said wife; and if upon such separate examination, she shall declare that she did voluntarily, and of her own free will and accord, seal, and as her act and deed deliver the said deed or conveyance, without any coercion, or compulsion of her said husband every such deed or conveyance shall be and the same is hereby declared to be good and valid in law, to all intents and purposes, as if the said wife had been sole, and not covert at the time of such sealing and delivery, any law, usage or custom to the contrary in any wise notwithstanding; *Provided*, That the Judge or Justice, taking such acknowledgement shall under his hand & seal, certify the same upon the back of such deed or conveyance.

Duty of magistrates taking acknowledgment.

The said acknowledgment to be certified.

Sec. 12. It shall and may be lawful for any Judge of the court of Common Pleas, or Justice of the Peace of any county in this Territory, within the limits of their respective counties, to take the acknowledgment or proof of the execution of any deeds or conveyances, or

Justices &c. in one county may take acknowledgment or proof of the execution of deeds of land.

**In another
county in the
territory.**

release of dower of any lands or tenements, lying and being in any other county in this Territory; which acknowledgments or proofs, or release so taken and made, the same being duly certified by the Clerk, under the county seal, shall be valid and effectual, and have the same force and effect, as if the same were taken before any Judge, or Justice of the Peace of the county, in which the said lands or tenements are situate.

**Deeds for
lands execu-
ted out of
the territory**

**How to be
acknowledg
ed & certified**

Sec. 13. All deeds and conveyances made and executed by any persons not residing within this Territory, and brought hither to be recorded in the county where the lands lie, the acknowledgment thereof being taken and made in manner herein before directed before any mayor or chief magistrate, or officer of the cities, towns or places, where such deeds or conveyances are, or shall be made, or executed, and certified under the common or public seal of such cities, towns or places shall be as valid and effectual in law, as if the same had been made and acknowledged in manner aforesaid, before any Judge of the General court of this Territory, or before any Judge of the court of Common Pleas, or Justice of the Peace, for the county where the lands lie; any thing herein contained to the contrary notwithstanding.

AN ACT

For the removal and safe keeping of the ancient records and papers in this Territory.

Passed Dec. 25, 1812.

Whereas it has been suggested to this Legislature, that certain interpolations and forgeries have lately taken place in one of the ancient record books, upon which the title of ancient grants depend; and whereas the Legislature thereupon sent for one of those record books, and inspected the same and are satisfied in their own minds, that an interpolation has been made therein, Therefore.

Preamble.

Be it enacted by the Legislative Council, and House of Representatives, and it is hereby enacted by the authority of the same, That it shall be the duty of the recorder of Randolph county to deliver to the Secretary of this Territory, on or before the fifteenth day of January next all the ancient books, records and papers which are filed in his office which bear date previous to the thirteenth day of July in the year one thousand seven hundred and eighty seven, and shall take the said Secretary's receipt therefor, which said secretary is hereby authorised to file the same in his office and be safely kept by him as other public archives and records of his office.

Recorder of Randolph to deliver record to secretary.

Take Secretary's receipt

Sec. 2. Be it further enacted, That all copies or transcripts which may be made by the said secretary from the said papers or

Transcripts attested by secretary to be authentic

**And not to be
inspected by
any person
unless in pre
sence of secry**

records and attested by him shall be as authentic in any court of record in this territory as if given by the recorder of any county. And the said secretary shall never suffer or permit the said records or papers to be inspected by any person unless in his presence or in the presence of his express agent. This act to be in force from and after the passage thereof.

R E V E N U E.

AN ACT

*For the appointment of an Auditor and
Territorial Treasurer.*

Passed Sept. 17, 1807.

**Govr. to ap-
point audit
or during
pleasure.**

**Keep territo
rial acpts.**

Sec. 1. The Governor shall appoint an Auditor who shall continue in office during pleasure, whose duty it shall be to keep the accounts of this territory with any state or territory, and with the United States, or any individual; to audit all accounts of the civil officers of this territory, who are paid out of the treasury, of the members of both branches of the legislature, and of all other persons authorized to draw money out of the treasury; but

nothing herein contained shall be so construed as to authorize the auditor under any pretext whatever to audit any account, or give any certificate which would enable any person or persons, to receive any sum or sums of money, unless in cases particularly authorized by law.

Sec. 2 It shall be the duty of the said auditor, as soon as he shall have ascertained the balance due any individual, to give such person or persons a certificate, certifying that there is a balance, mentioning the sum due to the person applying for the same.

Audit all demands authorised by law.

Give certificate of amount.

Sec. 3. The said auditor before he enters on the duties of his office, shall give bond with approved security, to the governor of this territory or his successor in office in the penal sum of eight thousand dollars, conditioned as follows:

Give bond in penalty.

"That he shall justly and honestly audit and fairly keep the accounts between this territory and any state or territory, the United States, or any individual, as the case may be, and that he will deliver to his successor in office, all books, and other vouchers, which shall be by him kept by virtue of this law;" and moreover take the following oath or affirmation.

Take oath.

"I, A B, do solemnly swear or affirm as the case may be, that I will justly and honestly perform the duties of auditor of this territory, to the best of my skill and judgment so help me God."

Form.

X x x

Duty of auditor.

Sec. 4. The said auditor shall make a fair list of all accounts by him audited, in a book to be kept by him for that purpose, as also an account of all taxes and other monies which may be due to any person from this territory; and it shall be the duty of such auditor to make out and present to the Legislature a transcript of said accounts, shewing the amount of all certificates by him given, as also the amount of all taxes which have been received, or are still due the said territory, on the first week of their session, or as often as the legislature may require.

To number certificates.

Sec. 5. The said auditor shall keep a fair record of all warrants and certificates by him drawn numbering the same in a book by him to be kept for that purpose.

Make abstract &c.

Sec. 6. When the said auditor, shall have made out abstracts of all sums due in the respective counties, and sent them to the different collectors; he shall make out in a book for said purpose a fair account against each collector, a copy of which shall be sufficient for the attorney general, to proceed by motion in a summary way against all delinquent collectors before the general court or court of Common Pleas; *Provided*, The said collector shall have ten days previous notice of such motion, and the said auditor shall upon receiving the treasurers receipt, give to the said collectors a *quietus*, which shall after receiving the same prevent the auditor or attorney general from motioning against him for the sum mentioned in the said receipt.

Proceed by motion on giving notice**Aud. to give acquittances.**

Sec. 7. The governor shall appoint a treasurer, who shall continue in office during pleasure, who shall prior to the entering upon the duties of his office, give and execute a bond with sufficient security in the sum of eight thousand dollars, to be approved of by the governor, conditioned for the due and faithful performance of the duties of his office; the said bond shall be given to the governor payable to him or his successors in office, for the use of the Territory.

Govr. to appoint treasurer.

Give bond

Sec. 8. The governor may when he suspects the obligors in said bond, to be insufficient, require the treasurer to give other bond with sufficient security, to be approved of as aforesaid, which said bond shall be deposited in the office of the secretary of this territory.

Govr. require additional security.

Sec. 9. If said treasurer die, resign, or be displaced, or cease to hold his office, then such treasurer, or if he be dead, his heirs, executors or administrators, shall fairly and regularly state the amount, and deliver the monies, together with all instruments of writing, books and papers of the territory, in his her or their possession, to the succeeding treasurer, who shall make report thereon to the Legislature, and the said report, if confirmed by the Legislature, shall be a discharge of the said bond, which in such case shall be delivered to the said treasurer, his heirs, executors or administrators.

Treasurer going out of office, report to successor.

And him to legislature.

If approved discharge bond.

Sec. 10. It shall be the duty of the treasurer to receive the proceeds of all taxes, and other public monies of this territory.

Duty surer

Not pay money &c.

Sec. 11. He shall not pay any money, but on a warrant or certificate from the auditor, except the auditor's salary.

Keep acpts. and lay same before legislature.

Sec. 12. He shall keep a regular account of all monies he receives, and pays agreeable to law, stating therein on what account each particular sum was paid, or received; and the time when, and lay a fair statement of said accounts, before the Legislature, on the first week in every session, or as often as the Legislature may require.

Make monthly returns to auditor, who shall take copy.

Sec. 13. It shall be the duty of the treasurer to deliver monthly to the auditor, an account of his payments, and of the warrants on which they were made; and the auditor shall copy it in a book kept for that purpose.

Give recpts.

Sec. 14. The treasurer, on receiving any sum of money, shall receipt for it to the person paying the same.

Sections 15 & 16, are not in force.

Aud. to direct A. G. to motion for monies due.

Sec. 17. It shall be the duty of the auditor to direct the attorney general, to motion against all delinquents for the payment of public monies, which have heretofore accrued to the territory.

AN ACT

For levying and collecting a tax on Land.

Passed Dec. 23, 1812.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same, That for the purpose of raising a tax upon land it shall be divided into three classes; The Mississippi & Ohio Bottoms shall be considered first rate, all other located lands second rate, and all claims to land that have been confirmed by proper authority, shall until they are located, be considered as third rate, but as soon as they may be located, they shall be considered, as belonging to the second class, unless they be located in the bottoms aforesaid, but if located in said bottoms they shall be considered first rate.

**Rates of
lands.**

Sec. 2. Be it further enacted by the authority aforesaid, That each and every person claiming land by deed, entry, bond for conveyance, and confirmed by the proper authority whether residents or non-residents, shall, enter the same for taxation in the manner herein after provided and within the time specified; and if any person or persons shall fail to do so, he, she or they shall forfeit five dollars for every hundred acres of land, one half of which shall go to any person suing for the same, and the other half for the use of the Territory.

**Owners of
land to en-
ter it for
taxation.**

Sec. 3. *Be it enacted by the authority aforesaid,* That the territory shall have a lien upon

Territory to have a lien on lands for taxes.

all and every tract of land or claim thereto, for the taxes hereafter imposed which lien shall not be affected by any transfer whatever, and all sales & other proceedings hereinafter directed, shall be deemed good and valid in whose name soever the said land or claim thereto shall be entered or sold, unless he, she or they contesting the validity thereof shall shew that the tax had actually been paid thereon, which in all cases shall be the first thing required of any one attempting to set aside any sale under this act.

Section 4 is not in force.

Land to be described.

Sec. 5. *Be it enacted by the authority aforesaid,* That those persons hereinafter required to list their lands for taxation, shall specify as far as he, she or they can, each separate tract, the class it belongs to, the name of the original claimant, to whom confirmed, to whom patented, in what county and on what water course it lies.

Non-residents to enter their land with aud.

Sec. 6. *Be it enacted by the authority aforesaid,* That all non-residents shall enter their lands with the auditor of public accounts at his office in the town of Kaskaskia, on or before the first day of August next, and if any such non-resident or non-residents shall fail to pay the taxes imposed by this law on or before the first day of October, the auditor shall transmit a list of such delinquents and a list of the lands entered by them or their agents to the sheriff of Randolph county as soon as may be, whereupon the said sheriff shall advertise the said lands as listed for sale in some newspaper most convenient to Kaskaskia, as many as five suc-

cessive weeks, giving notice of the day of sale, and shall accordingly sell the whole or so much of each tract as will pay the tax, his fee and the costs of advertising which sale shall be at the door of the house in which court may be usually held for the county of Randolph.

If they fail to pay the land to be sold.

Sec. 7. *Be it enacted by the authority aforesaid*, That it shall be the duty of the commissioner, of each county in this Territory to advertise in their respective counties, at the usual places of holding courts for the same, and in each township if there be any, that he will on a certain day, not less than * twenty days thereafter attend at some place in each township if any there be, otherwise at some place that he may suppose convenient for the purpose of receiving from the inhabitants of his county, their list of lands according to this law, and such persons are hereby required to attend at such places as said commissioners may appoint as aforesaid; *Provided however*, That any person who does not attend shall have a right at any time within ten days thereafter, to tender his, her or their lists, according to law to said commissioners. In failure of any person to list his, her or their lands, the commissioner shall proceed to list such person or persons lands agreeably to the best information he can get. Any person or persons giving in a list of their lands aforesaid, shall swear that said list contains a true and correct account of his, her or their lands to the best of his her or their knowledge.

Commissioner to advertise in townships

Persons failing to attend may afterwards give in a list

* *This is altered by 6, section Act 24th December 1814.*

**Penalty for
fraudulent
list**

And if any fraud shall be practised in said list or lists, the person or persons guilty thereof shall forfeit to the Territory the whole interest in the land about which such fraud may be practised.

Section 8, is not in force.

**Auditor to
charge sheriff
with lists of
taxes**

Sec. 9. Be it further enacted, That the auditor shall charge each sheriff with the taxes due, according to their respective lists.

**Sheriff to
collect the
taxes**

Sec. 10. Be it further enacted, That each sheriff shall have power, and it shall be his duty to demand of every inhabitant of his county, the amount of the tax due by him, her or them, for their lands either personally or by leaving a notice at their usual or last place of residence, on or before the first day of * June next, yearly and every year, and on failure of any person to pay the same, the sheriff shall proceed to sell the land, or so much thereof as will pay the tax and the costs due on it at the door of the house in which court may usually be held in his county, having given at least forty days notice thereof, by advertising at the door of the house aforesaid, and three times successively in some newspaper most convenient to the place of sale: Provided however, That it shall be the duty of the sheriff to receive any arrearages of taxes with the costs that have accrued thereon for advertising, if the person tendering the same will pay him also

**May sell the
land**

* By act 24th Decr. 1814 3d, section it is October.

five cents on each tract for his own use. And *Provided also*, That if the owner of any tract or tracts of land for which the said tax shall be in arrear, or any person for him, shall on the day on which the said land shall be advertised for sale as above mentioned, tender and deliver to the sheriff, to be sold on that day by him, at the place of sale as above mentioned, goods and chattles sufficient to make the said tax and costs so in arrear, then the sheriff shall not sell the land or any part thereof, but shall make and levy the said tax in arrear by a public sale of such goods and chattles, rendering the overplus if any, to the owner of such land or such person for him.

Sec. 11. *Be it enacted by the authority aforesaid*, That if any tract of land of either residents or non-residents will not when exposed the sale as aforesaid, sell for the taxes, and costs due thereon, it shall be struck off to the Territory which shall be considered as the purchaser thereof.

**When land
shall be
struck off to
the territory.**

Sec. 12. *Be it further enacted*, That in all sales of non-residents lands, the sheriff who sells the same shall return a list of the sales, specifying the quantity of each tract that has been sold, the price it sold for, and the purchaser's name to whom it was sold. In all sales of the lands of residents the sheriff of each county respectively shall return a similar list to the clerk of the court of common pleas in his county, both of which lists shall be carefully preserved, and it shall moreover be the duty of

**Sheriff to re-
turn list of
sales of l'nd**

the said sheriff to give to each purchaser a certificate of the sale to him which shall vest the title in him completely and perfectly, unless the land should be redeemed in the manner hereinafter pointed out.

**If too much
tax be charg
ed not to va-
cate sale.**

Sec. 13. *Be it further enacted*, That if any sheriff in selling said land should happen to charge too much tax and cost thereon, it shall not vacate the sale thereof, but the purchaser shall relinquish so much of the lands as will bear a propo tion to the sum overcharged, rating the value of the whole land purchased by the price it sold for.

**Sheriff to pay
the taxes.**

Sec. 14. *Be it further enacted*, That the sheriff of each county respectively, shall on or before the fist day * November in each year, pay to the public treasurer the whole amount of the taxes collected by them on land which shall go to defray all Territorial expences, and the said sheriffs shall settle with the auditor for all delinquences and for all land which could not sell, who is authorised to give them credit for the same.

**Fine on shff.
for over char-
ging ees**

Sec. 15. *Be it further enacted*, That if any sheriff shall charge more than his legal fees for the collection of the tax aforesaid, he shall be subject to a fine not exceeding three hundred dollars. That for taking in a list of lands as aforesaid, each commissioner shall be allowed by the court of common-pleas, two dollars per day for the time necessarily spent therein,

**Allowance to
commissioner
and sheriff.**

* *By 5th Section of Act 24 Decr. 1814 it is December.*

and the sheriff for collecting the taxes aforesaid, seven and a half per cent which shall be allowed by the auditor.

Sec. 16. *Be it further enacted*, That all residents shall be allowed two years to redeem their land, residents by paying the price it sold for with one hundred per cent, thereon to the clerk of the court of common pleas in the respective counties. The non-residents by paying at the same rate to the auditor, which money the said clerks and auditor shall pay to the respective purchasers, their agents or attorneys, whenever thereto required, and of the receipts of which they shall keep a record in their respective offices, which at all times shall be evidence sufficient to vacate the sales as aforesaid.

**Land sold
may be re-
deemed and
how.**

Sec. 17. *Be it further enacted*, That each clerk shall be allowed for the duties enjoined on him by this act, the sum of ten dollars.

**Pay of the
clerk.**

Sec. 18. *Be it further enacted*, That the auditor shall cause to be published in some news-paper for three weeks successively, such parts of this act as relates to listing lands and the tax imposed thereon and the time such tax will become due.

**Auditor's
duty.**

Sec. 19. *Be it further enacted*, That each sheriff shall enter into bond to the governor of the Territory, with sureties to be approved of by the court of common pleas, in their respective counties, in the sum of two thousand dollars, conditioned for the faithful discharge of the duties enjoined on him by this act.

**Sheriff to
give bond.**

**Auditor and
tresurer to be
appointed.**

Sec. 20. *Be it further enacted*, That an auditor and treasurer shall be appointed whose duty shall be the same as those required by the laws of the Indiana Territory as they stood on the first day of March 1809, and who shall keep their respective offices at the seat of government.

AN ACT

Authorising the appointment of County Commissioners and for other purposes.

Passed December 25, 1812.

Section 1 provides for the appointment of the County Commissioner. His office is abolished and the county treasurer discharges its duties, by Act. Decr. 24th 1814.

Sec. 2, *Be it further enacted*, That the commissioner's list for taking in lands subject to taxation shall be in the form following to wit:

**Auditor to
procure ab-
stracts of
entries.**

**Auditor to
transmit ab-
stracts.**

**Clerk to de-
liver abstract
to com.**

**Former laws
repealed.**

**Comsr. to
take in list of
taxable prop-
erty.**

**Comr. to
have same
power as
sheriff here-
tofore.**

be the duty of the Auditor and he is hereby authorized & empowered to apply for & procure from the proper officers an abstract of all entries locations & all confirmed lands by legal authority, held by individuals and purchased from the United States of all lands in the several counties in this territory noting where and on what creeks, water courses &c. such entries, locations, confirmations and purchases have been made with the names of the persons for whom entered, located and confirmed, and by whom purchased from the U. States, & it shall be the duty of the auditor to transmit the said abstracts of entries locations & confirmations of land to the clerks of the respective counties by the first day of May next yearly and every year which Clerks shall deliver the said abstracts to the respective commissioners as soon as appointed which commissioners shall again return such abstracts to the clerks respectively after said commissioners shall have finished the the business enjoined by this law.

Sec. 4. *Be it further enacted*, That so much of the several laws as makes it the duty of the sheriffs in the respective counties to take in a list of taxable property in each county annually shall be and the same are hereby repealed.

Sec. 5. *And be it further enacted*, That the commissioners authorised to be appointed by this act to take in lists of lands in their respective counties, shall also take in a list of the taxable property in their counties in the same manner, and at the same time, and shall exercise the same powers as heretofore directed and vested in the sheriffs of the several coun-

ties by law, that said commisssoners shall be allowed two dollars per day to be paid out of the county levy for the services last mentioned, but they shall in no instance charge the territory and the county for the same days service.

That the public auditor shall on failure of non-residents to list their lands, list them from the best information he can get which list shall be proceeded on as if it had been made by non-residents themselves.

**Aud. to list
non residents
land.**

That whenever lands are listed in one county which lie in another they shall be sold and all such proceedings be had therein as if they lay within said county in which they may be listed.

**Where lands
are to be sold**

That in no instance shall this law or that to which it is a supplement be so construed as to oblige one person holding a bond for conveyance and another holding the legal title to pay the tax for the same tract of land but payment by one shall be sufficient and the person holding such bond for conveyance shall pay said tax.

**Person hold-
ing title bond
to pay tax.**

That in all cases the Treasurer shall pay off county claims according to seniority, to ascertain which it shall be the duty of the clerks to furnish him with a list of the claims and the times when allowed which shall be a rule to all treasurers.

**Claims paid
by seignor'y**

That for any failure to execute any duty enjoined by this act on all and every commissioner he or they so offending shall be sub-

**Fine on
commissioner**

ject to a fine of three hundred dollars and no commissioner shall without incurring such penalty resign his office till after he has performed the services required of him for the year in which he shall be appointed. Each commissioner shall previous to his entering on the duties of his office give bond with security to be approved by the court of Common Pleas in the penalty of one thousand dollars to the governor of the territory conditioned for the faithful discharge of his duty which bond shall be filed in the clerks office of said courts.

**commissioner
to give bond**

AN ACT

For levying and collecting an additional Revenue and to amend the Act for levying and collecting a tax on land.

Passed Dec. 11, 1813.

Sections from 1 to 8 (inclusive) are not in force.

Sec. 9. *Be it further enacted,* That where any tract of land shall be hereafter sold for the taxes and costs, the purchaser or purchasers shall be charged with the taxes which may be thereafter due on any such tract or tracts of land notwithstanding the time of redemption shall not have expired and in case any such tract of land shall be redeemed by the former owners, as provided by law, after there shall have been a subsequent tax due thereon, the former owner or owners shall at the time of paying to the auditor or clerk the redemption money, also pay the amount of such subsequent tax or taxes before he or they shall be entitled to a certificate of redemption as provided in said act. This act shall commence and be in force from and after the passage thereof.

Persons redeeming land sold for taxes must pay the taxes due or paid after the sale.

Z z z

AN ACT

Supplementary to an act entitled "an act for authorising the appointment of county commissioners and for other purposes" passed the 25th day of December 1812.

Passed Dec. 14, 1814.

**Auditor to
contract with
the Register
of the land
office of Vin
cennes Shaw
noetown Kas
kaskaskia for
transcript.**

Be it enacted by the Legislative Council and House of Representatives and it is hereby enacted by the authority of the same, That the auditor be authorised to contract with the Registers of the land offices of Vincennes, Shawnoe Town and Kaskaskia for transcripts therein required, for which and the other duties of him required by the aforesaid act, he shall receive a competent compensation yearly and every year to be provided by law, Provided always, that no transcript so obtained shall be included in any subsequent one.

AN ACT

To repeal part of an act entitled "An Act for levying and collecting a tax on land."

Passed Dec. 1, 1814.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of Illinois Territory, That so much of the seventh section of an act passed at the first session of the Illinois Legislature, on the 23rd day of December 1812, entitled "An Act for levying and collecting a tax on land" as relates to the forfeiture of lands fraudulently given into the commissioners shall be, and the same is hereby repealed.

**no forfeiture
for fraudulent
list.**

Sec. 2. Be it further enacted, that in all cases where persons either residents or non-residents shall fail to give in a list of their lands according to law, such persons shall be subject to pay tripple the tax imposed on said land by law, any laws or parts of laws to the contrary notwithstanding. This act to commence and be in force from and after the passage thereof.

**To pay trip-
ple tax.**

AN ACT

For levying and collecting a tax on Billiard Tables.

Passed December 22, 1814.

**billiard tables
taxed.**

**Owners to
enter it with
the assessor.**

**Sher ff to col-
lect it.**

Sec. 1. *Be it enacted by the Legislative Council and House of Representative and it is hereby enacted by the authority of the same, That* all and every person or persons who shall erect or keep a billiard table within this territory, shall annually on the first Monday of January or within one week after erecting such billiard table, enter the same with the assessor of the county in which such billiard table shall be erected, and it shall be the duty of the sheriff at the same time and in the same manner as pointed out by law to collect the tax on land, to receive and collect from each person having entered such billiard table the annual sum of forty dollars to be paid and accounted for by said sheriff in the same manner as the other revenue taxes are accounted for.

**The owner
fined for fail-
ing to enter
it with the
assessor.**

Sec. 2. If any person or persons, who shall so keep or erect any such billiard table, shall refuse or neglect to enter the same as aforesaid, he or she so offending shall on conviction thereof by presentment or indictment be fined in any sum not less than forty dollars nor more than eighty dollars with costs.

Sec. 3. In case of non-payment of the tax

on the days whereon the same ought to be paid, the sheriff shall levy the same by distress and sale of the delinquents goods and chattels, having previously given ten days notice of the time and place of such sale, and the territory shall have a lien on the said billiard tables for the said taxes.

**Sheriff to
distrain for
the tax.
Territory to
have a lien
on the bill-
iard table.**

Sec. 4. All audited accounts against the territory shall be received by the sheriffs as collectors in payment of said tax.

**Audited ac-
counts recd.**

AN ACT

To amend an act entitled "An act for levying and collecting a tax on land."

Passed December 24, 1814.

Sec. 1. Be it enacted by the Legislative Council and House of Representative, and it is hereby enacted by the authority of the same, That it shall be the duty of the territorial Auditor, and he is hereby authorised and empowered to apply for and procure from the proper offices, an abstract of all the entries and locations and purchases made by individuals from the United States of lands in the several counties in this territory, noting where and on what creeks or water courses, in what range, town-

**Auditor to
procure ab-
stracts of
land.**

**To transmit
them.**

ship, section and quarter section, such entries and locations and purchases have been made, with the names of the persons, for whom entered and located, and by whom purchased from the United States, and it shall be the duty of the auditor to transmit the said abstracts, as is directed by the act, to which this is a supplement.

Place of taxation.

Sec. 2. Be it further enacted, That all the aforesaid lands, shall be taxed as follows, (viz.)

If located, entered or purchased in the Mississippi, Ohio or Wabash bottoms, the same shall pay at the rate of one dollar per hundred acres—all other located, entered or purchased as aforesaid, in any other place, except the Mississippi, Ohio or Wabash bottoms, shall pay at the rate of seventy-five cents per hundred acres, and all unlocated confirmed claims shall pay at the rate of thirty seven and a half cents per hundred acres.

**Duty of the
commissioner.**

Sec. 3. Be it further enacted, That the commissioner to be appointed for the respective counties, shall not enter on the duties of his office before the first day of the month of July, yearly and every year; and it shall be their duty to finish taking in the lists aforesaid by the first day of the month of August, yearly and every year, and within six days thereafter, shall make return of the same to the clerk of the county court of his county, who shall make out two fair copies of the same, one of which he shall deliver to the sheriff and the other he shall transmit to the auditor of public accounts, within ten days thereafter, retaining the original in his office, which original or copies there-

**Duty of
clerks of
county courts**

of shall be admitted as testimony in any court of record within this territory.

Sec. 4. Be it further enacted, That each sheriff shall have power and it shall be his duty to demand of every inhabitant of his county the amount of tax due by him, her or them for their lands, either personally or by leaving a notice at his or their usual or last place of residence on or before the first day of the month of October yearly and every year.

**Sheriff to
collect taxes**

Sec. 5. Be it further enacted, That the sheriffs of each county respectively, on or before the first day of the month of December, yearly and every year, pay to the territorial treasurer the whole amount of the taxes collected by them on land, which shall go to defray the territorial expenses, and the said sheriffs shall settle with the auditor for all delinquencies, and for all lands which could not sell, who is authorised to give them credit for the same.

**Auditor to
pay them to
the territori-
al treasurer**

**and settle
with the
auditor for
delinquencies**

Sec. 6. Be it further enacted, That the commissioners to be appointed under the act to which this is an amendment may advertise in the respective townships of their counties if there be any, that he will on a certain day, not less than ten days thereafter attend at some place in each town-ship, if there be any, otherwise at some place that he may suppose convenient to the inhabitants, for the purpose of receiving from the inhabitants of his county, their lists of lands according to law, and such persons are hereby required to attend at such places as said commissioners may appoint as aforesaid.

**Duty of the
commission-
ers**

How claimants may describe their land in certain cases.

Sec. 7. That in all cases where ever any person may have any doubts as to the original claimant of the land which he is required to list for taxation, such person shall in lieu thereof be authorised to state the number of the survey under which such person claims.

AN ACT

Appointing a county Treasurer and defining the duties of Collectors and Treasurers.

Passed December 24th 1814.

Law making sheriff treasurer repealed.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of the Illinois Territory and it is hereby enacted by the authority of the same, That so much of the law of this Territory as makes the sheriffs of the respective counties, Treasurers thereof, be and the same is hereby repealed.

Gov. to appoint county treasurer.

Sec. 2. Be it enacted by the authority aforesaid, That there shall be appointed by the Governor one fit person in each county to be Treasurer thereof, who shall give bond and sufficient security to be approved of by the county court of his county as the law directs in the penal sum of two thousand dollars for the faithful performance of his duty and shall

be under the same rules and regulations and exposed to the same fines and forfeitures as the sheriffs as treasurers were for any failure of duty of his said office. And that he shall perform all the duties required by the different laws of this territory of county treasurer. And the said treasurer shall receive as a compensation for his services five per cent for all monies that he may as treasurer receive and pay out; and it shall be his duty to pay all sums of money as the law directs on proper vouchers being exhibited to him due by his county.

his duty.

his compensation.

And it shall be the duty of the Governor to appoint a treasurer in each county as soon as may be after the date hereof.

Sec. 3. And be it further enacted, That it shall be the duty of said treasurer to settle with the county court of his county at each session thereof annually for all monies he shall before said court at any time have received, and paid out with his vouchers for the same. And it shall be the duty of the district or territorial attorney to be present at said settlement with the treasurer once in each year, & he shall aid the court in deciding on the validity of the vouchers presented by him in the said settlement and all payments shall at all times be accompanied with a list of the persons names to whom payment is made, the amount and what for, and the attorney so attending shall receive out of each county treasury he attends the sum of ten dollars therefor annually.

Treasurer to settle with county court at every term

Prosecuting attorney to assist court in settlement.

His compensation.

Sheriff to settle with treasurer — when

Penalty for failing to do so.

Treasurer to inform prosecuting attorney of balances due by sheriffs.

Sheriff to exhibit a list of delinquents.

Sheriff to publish delinquents names

Sec. 4. And be it further enacted, That it shall be the duty of each sheriff of the respective counties to settle with and pay into the treasury of their respective counties at each and every county court, yearly and every year from the date hereof all arrearages of his county levy and all other monies belonging to the county treasury under the penalty of one thousand dollars for refusing or failing to comply with the provisions of this section to be recovered for the use of the county in any court of record having jurisdiction thereof. It shall be the duty of the treasurer where he finds on the Books of the court of his county that the sheriff has not paid the full amount of the tax for any preceding year, he shall inform the prosecuting attorney thereof, whose duty it shall be to institute an action against any of said sheriffs for the recovery of the sum apparently due to the county treasury. But he shall be allowed a deduction out of the amount of the county levy for the real delinquencies and insolvencies and for no more. In all payments to the treasurer, the sheriff shall be obliged to exhibit a list of the persons names from whom he received the same with the respective amounts to each name annexed.

Sec. 5. Be it further enacted, That it shall be the duty of the sheriffs of the respective counties, to put upon the most public places of the court house of his county on the first day of the court next after or at which he makes the last settlement for any year as directed by this law, a list of all the names of the delinquents and insolvents for which he claims a deduction on his said settlement with the county treasurer,

and should said sheriff return untruly any name or names for any person or persons as delinquents or insolvents for every such name so returned shall forfeit and pay to the use of the county of which he is sheriff the sum of twenty five dollars in any court having jurisdiction thereof.

**If he returns
untruly.**

Sec. 6. Be it further enacted, That it shall be the duty of each Treasurer to put upon the door of the court house of his county a list of the names and of the amount given him in payment by the sheriff of his county for the years county revenue and levy, to the end, that each one may see if the sheriff has accounted with the Treasurer for the exact sum he has received from each individual and the said Treasurer shall copy the same in a fair legible hand in alphabetical order and receive therefor out of the county Treasury the sum of ten dollars.

**Treasurer to
publish nam's
sums &c.**

**his compen-
sation**

Sec. 7. Be it further enacted, That it shall be the duty of the clerk of the county court for each county immediately after the assessment made of the county levy and revenue to put up at the court house door of the county the assessment of the rates of all property made by the court to the end that the public may know the sum that they are bound to pay to the collector of the county. And the respective clerks shall receive for their copies of said list the sum of two dollars out of the county Treasury.

**Clerks to pub-
lish rate of
assessment.**

**his compen-
sation.**

Sec. 8. Be it further enacted, That it shall be the duty of the Territorial attorney to pro-

**Prosecuting
attornie to
prosecu e for
failures.**

his fee.

secute for each county for all failures of duty arising under this act and for every prosecution had under this act against any sheriff or Treasurer there shall for his fee be taxed in a bill of costs the same sum that is or may be allowed on indictments or presentments.

**Treasurer to
deliver to
sheriff blank
certificates.**

Sec. 9. Be it further enacted, That the respective Treasurers of the counties shall at the first county court in each county make out and deliver to each sheriff a number of blank certificates of every description belonging to the county revenue of the same nature that the sheriffs were by law authorized to grant, and take receipts for the same, from the sheriffs, who shall be entitled to a discount in his settlement with the treasurer on all he may return of such blanks.

**Treasurers
allowance
or stationary**

Sec. 10. Be it further enacted, That the treasurers to be appointed under and by virtue of this act shall be entitled to the sum of ten dollars annually as a compensation for books and stationary necessary to the said office.

**Treasurer to
perform he
duties of
county com
missioner.**

Sec. 11. Be it further enacted, That the said treasurers shall in their respective counties hereafter perform all the duties required by law of commissioners for taking in a list of taxable property and that in future no commissioners shall be appointed for that purpose, but such treasurer shall have the same compensation therefor as county commissioners have hitherto had.

AN ACT

For the relief of those who forfeited lands by failing to give a list to the Commissioners.

Passed Decr. 8, 1814.

Whereas it has been represented to the General Assembly of the Illinois Territory that the owners and possessors of land in some instances have failed to list all their lands subject to taxation as the law directs, and the land in consequence thereof is forfeited to the use of the Territory for remedy thereof.

Preamble

Be it enacted by the Legislative council and House of Representatives of the Illinois Territory and it is hereby enacted by the authority of the same, That in all cases, where the owner or owners of land in said Territory have omitted or neglected to list all their lands subject to taxation as the law requires, that the land so omitted or neglected to be listed may be redeemed by the payment of tripple tax on the same, *Provided*, the owner or owners thereof pay into the office of the auditor, the same, on or before the first day of March next, and the auditor is hereby authorised and empowered to receive the same and to give a receipt for the same.

To pay tripple tax to the auditor before 1st of March 1815.

This act to commence and be in force from and after the passage thereof.

AN ACT

To authorise the courts of counties within this Territory, to draw on the county Treasurer, for the services and expences therein mentioned.

Passed September 17th, 1807.

Sec. 1. *Is not in force.*

C. P. to order paymt. demands vs. county for fees wood &c

Sec. 2. The said several courts are empowered, and are hereby required to order the Sheriffs as Treasurers of their respective counties, to pay to all and every person or persons having any claims or demands, as well for attending the several courts of record in the said counties, as Constables or otherwise, for fire wood, and court house rent, and the fees due to witnesses, and the several officers of the courts in the public prosecution of those persons who were either acquitted of the charges brought against them, or discharged or unable to pay the fees, all of which shall be certified by the said court, in which such prosecutions were had, attendance given, or expences accrued; which orders shall be by said Sheriffs, as Treasurers, paid accordingly, out of any county monies in his hands.

Sec. 3. All costs, fees and charges to which the officers of the counties are now or may hereafter be entitled, for, or on account of any public prosecution, in either the superior or infe-

rior courts, shall be paid out of the county funds respectively, on an order attested by the Clerks of either court, as the case may be; and it is further provided, That the salaries that are now or which may hereafter be due, to any county Sheriff, or to the Clerk of the General court, shall be paid out of the county funds, on an order of the court of Common Pleas, attested by the Clerks thereof, of the counties respectively.

*Sec. 4. On all presentments or indictments hereafter to be found in this territory, the name or names of a prosecutor or prosecutors, shall be endorsed on every indictment or presentment, in default whereof, the said indictment or presentment, shall be immediately quashed by the court,

**Name of pro
secutor endor
sed**

Sec. 5. In case the defendant or defendants in any indictment hereafter to be found against him or them, shall be acquitted of the charges brought against him, her or them, or shall otherwise be lawfully discharged, the person or persons, whose name or names are endorsed on the said indictment, or presentment, as prosecutor, or prosecutors, shall be obliged to pay all the costs of the prosecution of such indictment or presentment, unless the court in their opinion shall think there were probable grounds for preferring the same; for which costs execution may issue against the said prosecutor or prosecutors, his, her or their bodies or estates.

**In case of ac
q uittal prose
cutor to pay
costs.**

**Unless the
court certify
ther were
probable
grounds**

* Sec. 4. *Is altered by the "Act concern-
ing indictments and presentments."* — Passed
December 22, 1814.

A L A W

*To regulate County Levies.**Passed Sept. 17, 1807.*

**What proper
ty subject to
cnty. levies**

Sec. 1. All houses in town, town lots, out lots, and mansion houses in the country, which shall be valued at two hundred dollars and upwards, all water and wind mills, and ferries, all stud horses, and other horses, mares, mules and asses, three years old and upwards, all bound servants and slaves, except such as the court of Common Pleas shall exempt for infirmities, between sixteen and forty years of age, within this territory, are hereby declared to be chargeable for defraying the county expences, in which they may respectively be found, to be taxed and collected in such manner and proportion as hereinafter directed.

**Sheriffs. to re
ceive written
lists under
oath, &c.**

* Sec. 2. The sheriffs in the several counties within this territory shall and are hereby empowered and required as hereinafter mentioned, to receive from each and every person or persons chargeable with taxes under this law, a written list under oath, containing a just and

* *This duty is now performed by the county treasurer — See the act of December 24th 1814.*

true account of all and every species of property in his or her possession or care, subject to taxation under this law, and the said sheriffs respectively, are hereby empowered and directed to administer the following oath or affirmation to such persons:

I, A B, do solemnly swear or affirm, as the case may be, that this list signed by me, contains a just and true account of all persons and of every species of property in my possession or care, within this county, and that no contract, change, or removal has been made or entered into, or any other method devised, practised or used by me, in order to evade the payment of taxes.

**Form of the
oath.**

Section 3 is not in force.

Sec. 4. If any person or persons shall give or deliver to a sheriff a false or fraudulent list of persons or property subject to taxation, or shall refuse to give a list on oath or affirmation to the sheriff, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the sheriff shall proceed to list such person or persons property agreeable to the best information he can procure; and all such property so ascertained shall moreover be subject to a tripple tax, to be collected and distrained for by the sheriff of the county, as in other cases; and in case of an imperfect, false or fraudulent list, the person or persons giving the same, shall be subject to pay a fine of fifteen dollars, and the

**pe sons liable
to fine for
fraudulent
list &c.**

**Duty of shff
in such case**

**Fines when
recoverable**

property subject to a tripple tax; which fines and triple tax shall be recovered in the county court of Common Pleas by the following mode of proceeding, and applied as hereinafter directed.

**How such
fines are re-
coverable.**

Sec. 5. The sheriff shall give information thereof personally, or if unable to attend, in writing, under his hand to the next court, of Common Pleas, held for his county; which court shall forthwith direct the clerk to issue a summons, requiring the party to appear at the next court to be held for the county to shew cause if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of his or her taxable property: and the person or persons upon being served therewith by the coroner and appearing, shall immediately plead to issue; and the matter thereof shall be enquired into by a jury or the court at the defendants option; and on conviction, or the person not appearing, being summoned, the fine and tripple tax shall be established by the judgment of the court; who, unless good cause shewn to the next succeeding court for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the sheriff for collection; the amount of which fine after deducting thereout, such allowances as the court may think reasonable to make to the coroner for his extraordinary trouble on the occasion, shall be applied towards lessening the county levy, & the tripple tax shall be charged to the sheriff, and accounted for in like manner, as other taxes.

Sec. 6. Every person or persons having knowledge of any incorrect, false or fraudulent list being given a sheriff, shall give information thereof, either to a sheriff or the county court of Common Pleas in like manner as the sheriff is directed, and thereupon the same mode of proceeding shall be had as if the sheriff gave information; and the person informing shall be entitled to receive one half of the fine imposed on the offender or offenders to his own use, and the other half to be applied towards lessening the county levy.

Persons having knowledge of such false or fraudulent list to give information &c.

Informers to receive half the fine.

Sec. 7. In case any person taxable should not give in a list of his taxable property, and it should appear to the sheriff that such absence was not intentional or done with a view of avoiding the delivery of such list, it shall be lawful for the sheriff to receive his or her list at any time at the dwelling house of the sheriff; *Provided*, such person tenders his or her list to the sheriff and makes oath to the justness of it, on or before the twentieth of March annually, and in case of failure the sheriff shall proceed in like manner, as is before directed in cases for refusal to give in lists and the courts shall determine upon the circumstances of the case, whether to inflict or remit the fine and tripple taxes

Persons taxable not giving in lists.

May deliver same to sheriff &c.

Sec. 8. The sheriffs in the several counties throughout this territory, shall, and they are hereby required to make two fair and complete lists of the persons and property so taken in, and arranged in alphabetical order, in manner following to wit:

Shff to make out two lists

Their form

Names of persons.
Number of bond servants and slaves.
Number of horses &c. above three years old.
Number of neat cattle above three years old.
Number of stud horses.
Rate the season.

**One he shall
keep the o
ther deliver
to clk. C P**

Duty of clk

One of which he shall keep, and the other, together with the vouchers, taken by him as aforesaid, shall deliver to the Clerk of the court of Common Pleas, on or before the last day of March, yearly; which lists and vouchers the Clerk shall file in his office, and the Clerk of the said court shall make thereof a true transcript, which he shall lay before the court, at the same term at which they audit the public accounts, for their examination and allowance; the bill of tax being allowed by the said court,

they shall annex thereto their warrant, under the hand and seal of the presiding Justice; and the Clerk of the said court shall ten days thereafter, deliver the same to the Sheriff for collection; for which, and for all other services rendered under this law, the said Clerk shall receive from the county ten dollars. Every Sheriff so charged shall collect all sums for which he is accountable within four months after he is charged with the collection of the same, and shall be allowed in full compensation for his trouble in taking in the property, and collecting the levy ten per centum, on all sums by him collected; and the said Sheriff shall previously to his entering on those duties, take and subscribe, before any Justice of the Peace the following oath or affirmation.

**When bill of
tax allowed
† to annex
their wrnt.**

When clk to deliver it to sheriff

Sheriffs accountable within &c.

"I do solemnly swear or affirm (as the case may be) that I will faithfully and impartially execute the office of collector of _____ county, according to the best of my abilities."

Form &c

Which oath shall be filed by the said Justice with the Clerk of the court of Common Pleas, and the said Sheriff shall enter into a bond, in the penalty of two thousand dollars, payable to the Governor of the territory, and his successors in office, with two or more responsible sureties, and bound for the faithful collection, accounting for, and paying the sums wherewith he shall be chargeable, as collector of the county, in manner directed by law; and every sheriff so charged to collect the county taxes and levies, may appoint one or more deputies to assist him, as well in tak-

**Sheriffs may
appoint de
puties &c**

**Shffs remedy
vs depty**

ing in the property, as in the collection of the levy, for whose conduct he shall be answerable; which deputies shall have the same power as the sheriff himself, and such sheriff shall have the same remedy and mode of recovery against his deputies or either of them, and their sureties respectively for any sums of money which by virtue of this law such sheriff may be subject to the payment of, on account of the transactions of any of his deputies, as he himself is subject to by law; and all monies collected by the sheriff as aforesaid, shall remain in his hands, subject to the orders of the court of Common Pleas of each county respectively, for the payment of the debts of the county.

**Rate of tax-
ation etc**

Sec. 9. The following rate of taxation shall be observed by the court of Common Pleas in levying the county tax, viz.

On each horse, mare, mule or ass a sum not exceeding fifty cents.

On all neat cattle as aforesaid, a sum not exceeding ten cents.

On every stud horse a sum not exceeding the rate for which he stands at the season.

Every bond servant or slave as aforesaid, a sum not exceeding one hundred cents.

And every able bodied single man of the age of twenty one years and upwards, who shall not have taxable property to the amount of

two hundred dollars, a sum not exceeding one dollar, nor less than fifty cents.

Sec. 10. It shall be the duty of the court of Common Pleas throughout this territory, at the first term next after the last day of March annually, and at such other special session as they shall appoint, to proceed to audit and adjust all claims and demands against their counties, allowing all just claims and demands which now are, or hereafter shall be chargeable upon the said counties respectively.

**C P to audit
and a just all
claims etc**

*Sec. 11. The several courts of Common Pleas throughout this territory at their court preceding the thirty-first day of March, annually, shall appoint two discreet freeholders in each township who shall proceed to appraise and value each house in town, town lot, town out lot and mansion house in the county of the value aforesaid and also shall appraise and value all water and wind mills situate on such tract of the county as may be assigned to them respectively, by the court of Common Pleas, taking into view the situation and value of the same; and the said freeholders, after having fixed such valuation, shall proceed and make out two fair alphabetical lists thereof, stating the proprietors or occupiers of such lots and mills,

**C P to ap
point valu
ers etc**

**Water and
wind mills**

**Freeholders
to make two
a habetical
lists**

**This is altered by Act 20th, of July 1809.*

with the valuation of each annexed to the same in form followi g, viz.

Their form

Proprietors, owners, or occuniers names,
Town lots and out lots.
Wind and water mills
Houses &c.
Valuation in dollars.

**How dispos
ed of**

one of which lists of valuation the said free-holders shall keep, and deliver, the other to the court of Common Pleas at the next term to be held for said county, which lists shall be filed by the Clerks in their respective offices; and the said court of Common Pleas, shall at the same time when they lay the county tax, levy a sum not exceeding thirty cents on each hundred dollars of such appraised value.

**Duty of crt
in levying
tax etc**

Sec. 12. It shall be the duty of the court of Common Pleas throughout the territory, at the same term at which they audit the public ac-

counts of the sheriff, for monies collected and paid by him as aforesaid, and having collected all such claims and demands against the county as are just and reasonable, to proceed to ascertain the probable expences of the county, the aggregate amount of claims allowed, and also such sum or sums of money as will be necessary to carry into effect any contract that shall have been made, for building or repairing any county jail, court house or bridges, adding thereto the expence of collection, and such other sum or sums of money as the said court of common pleas shall conceive needful, to make good deficiencies in collections, insolvencies, delinquencies, and other contingencies; and the said court shall take into view the money (if any there be) in the treasury, and probable amount that will be received from licences to vend and retail merchandize, tavern licences and taxes on ferries, and other sources of county revenue, such as fines forfeitures, &c. After which the said court shall proceed to levy a tax upon the owners, proprietors or occupiers of all and singular the objects of taxation pointed out by this or any other law; having due reference to the returns of the sheriffs and freeholders aforesaid, and the rule of taxation; truly apportioning such tax upon all objects taxable by this law, so as to raise a sum of money sufficient to answer and satisfy all demands then existing against the said county, or which shall afterwards become due by virtue of any contract or contracts by the said court of Common Pleas, in behalf of the county as aforesaid, previously made and entered

**When court
shall ascertain
expences. &c.**

**When said
cou shall
levy tax &c.**

**Court to ap
portion tax.**

chandize by retail in this Territory for one year from the date of the same, and no longer. And if any person or persons shall presume by himself or his agent to vend or sell any kind of merchandize within this Territory, or on any of the waters aforesaid, not the growth or manufacture of said Territory, not having first obtained a certificate as aforesaid, he, she or they so offending, shall for every such offence forfeit and pay a sum not exceeding eighteen dollars, to and for the use of the county, in which the offence was committed, to be recovered at the suit of the Sheriff, whose duty it is hereby made to prosecute therefor, before any court proper to try the same; and the Sheriff is hereby required to keep a fair account of all monies received as aforesaid, and also a regular account of the dates of all the certificates by him given to retailers or venders of merchandize, under this law; and it shall be the further duty of Sheriffs respectively, to lay the same before the county courts of Common Pleas at the same time at which they audit the public accounts annually.

Penalty for selling without certificate.

Sheriff to prosecute for same.

Sheriff to keep account of monies received &c.

Sec. 14. It shall be the duty of the court of Common Pleas, in each and every county, at their term next after the thirty first day of March, annually, to fix and establish a reasonable tax or duty upon each ferry within their respective counties; the said court in fixing said tax, to take into consideration the value and income of said ferries; *Provided*, That no one ferry shall be taxed in one year more than ten dollars; and it shall be the duty of the courts of Common Pleas, when they lay

When court shall lay tax on ferries.

the county levy, to tax the owners or proprietors of such ferries accordingly.

**Penalty on
shff for de-
manding
more tax
than by law
allowed &c.**

Sec. 15. If any Sheriff shall take, demand or receive of any person from whom taxes are due, more than his, her or their proper taxes, or shall in any sale of property taken for taxes, act contrary to the true intent and meaning of this act, or shall neglect or refuse to render a just and true account of all such sales to the county courts of Common Pleas, he shall forfeit and pay any sum not exceeding one hundred dollars, to be recovered by action of debt *qui tam*, or by indictment, before any court having jurisdiction; the one half to the person suing for the same, the other half to the use of the county; and moreover be subject to the suit of the party injured for damages.

**Shffs to set
the account
annually.**

**And shall be
credited &c.**

*Sec. 16. All Sheriffs shall settle and close their accounts annually with the county courts of Common Pleas at the second term after the period at which they are obliged by this law to finish the collection of the taxes, and shall in their settlements be credited for all the orders of the said court by them produced, and by such deficiencies arising from delinquencies, and insolvencies as the said court shall allow; together with the commission on, and paying the monies by them received; but

**See the Act of December 24th 1814 for the appointment of county Treasurer.*

should any such Sheriff fail or neglect to settle his accounts in manner aforesaid, it shall be the duty of attorney prosecuting the pleas in the respective counties, on giving such delinquent Sheriff and his security their executors or administrators, ten days notice thereof in writing, delivered personally, or left at the usual place of abode, on motion to obtain a judgment against them before any court having competent jurisdiction for the amount due such county, with an interest of twelve per cent thereon from the time the same became due: *Provided always*, That if any such delinquent Sheriff, shall produce his account, authenticated as aforesaid, to the court to which he is noticed, judgment shall not be taken for more than the ballance due the county with interest as aforesaid.

**Sheriff failing
to settle.**

**Ten days no-
tice given by
attorney.**

Sec. 17. The several courts of Common Pleas shall have power, and they are hereby authorised to make and enter into contracts in the name and behalf of their said counties for building anew, or repairing county jails, court houses, pillories, stocks and whipping posts, and county bridges, where and so often as the courts of Common Pleas may conceive the interest or convenience of said counties may require; and the better to carry such contracts into operation, the said courts respectively may appoint one or more persons, to superintend such buildings or repairs, and to see that the same is done agreeably to the conditions of such contract; and to make reasonable allowances to such person or persons, for his or their services therein. The original contracts so by the said courts to be made, for the pur-

**Power of cts
of C. P. to
contract &c.**

Proviso.

poses aforesaid, shall be filed in the office of the clerk of the said court, and the said courts are hereby authorised and required to pass, audit and allow the accounts and demands arising under such contracts made by said court, the same being certified by three Justices of said court, and to draw orders in favor of such creditors, in like manner as they draw other orders on the treasury: *Provided always*, That no such contracts by the said courts to be made shall be of any force or authority to warrant the said court to allow or pass any accounts or demands arising thereon, unless the person contracting with the said court, shall enter into bond with one or more sufficient surety or sureties, to be approved of by the said court, in double the sum of said contract, payable to the justices of said courts for said county, or their successors in office, conditioned for the faithful performance of such contract, which bond, when executed, shall be lodged with the clerk of said court, in trust for said county.

Penalty for neglecting or refusing to perform duty

Sec. 18. If any Justice of the Peace, Sheriff as collector, Coroner, Clerk of the court, lister or freeholder, shall neglect or refuse to do or perform any of the duties required of them, by this law, he, she or they so offending, shall forfeit and pay any sum not exceeding one hundred dollars, to be recovered before any court having jurisdiction, by action of debt, *qui tam*, or indictment, one moiety to the person suing for the same, the other to the use of the county.

Where and how to be recovered.

Sec. 19. If any person charged with coun-

ty taxes or levies by virtue of this act, shall neglect or refuse to pay the same to the collector, or his deputy, within three months next after the court of common pleas at which the county tax or levy is, or shall be approved, the collector or his deputy, shall have power to take the property of such delinquent, he first having demanded the same, and furnished such person with the sum of his or her tax, ten days before such distress made, or having left a copy of such tax, ten days as aforesaid, at the usual place of abode of such delinquent, & may proceed to sell the same to the highest bidder: *Provided always*, That ten days previous notice of such sale be given by advertising the same in the most public place in the township where such delinquent resides: *And provided also*, That the delinquent may at any time before the property distrained be sold, ask for, demand, and receive the same, on tendering his or her taxes then due, and the expences of keeping the property distrained. And in case the property taken sells for more than the taxes that are due, the collector shall pay the overplus, after deducting reasonable expense for keeping and taking care of such property, to the person from whom the same was taken, and the said collector shall keep a fair and regular account of all such sales, stating particularly what he detained for his trouble in keeping the property &c. and lay the same before the court of Common Pleas who shall examine the same, and if they find the collector has acted in any wise improper, they shall forthwith, see justice done to the party injured.

Persons refusing or neglecting to pay tax.

Collector or deputy to take property

Notice given before sale.

Delinquents may redeem property.

If property overpays overplus returned

Keep account of sale

**Persons ag-
grieved may
appeal.**

Sec. 20. And if any person shall think himself aggrieved by the valuation of his or her house, by the freeholders to be appointed for that purpose, he or she may appeal to the court of Common Pleas of the county, who shall in a summary way, hear and determine upon the case, and shall confirm or alter the assessment of the said freeholders as to them shall appear just and reasonable: *Provided always*, That the appeal shall be made before the bill of taxation shall be put into the hands of the sheriff for collection.

**When appeal
to be made**

**Household-
ers to give
in young
men.**

Sec. 21. It shall be the duty of all the householders in their respective townships to give in to the sheriff at the same time that they deliver in a list of their taxable property, and under the like penalties, the names of all single men above the age of twenty-one years, and who have not taxable property to the amount of two hundred dollars, who lodge or dwell in their respective houses, and if any such single man &c. as above mentioned, shall neglect, or refuse, on application being made to him, for the purpose, by the sheriff or his deputy, to pay his tax, it shall be lawful for such sheriff or deputy, to commit such delinquent to the county jail, where he shall remain, until the said taxes shall be paid, unless some responsible person person in the opinion of the sheriff shall be forthcoming therefor.

AN ACT

Laying a Tax on Law Process.

Passed Sept. 17, 1807.

Sec. 1. The following tax on law process, shall be paid for the use of the counties respectively.

**Tax for use
of county.**

D. C.

On each appeal from any court of
Common Pleas to the General
Court.

1

Rates.

On each writ or declaration in
ejectment, instituting a suit in
any court of Common Pleas

50

On each certificate under the seal
of any court of Common Pleas

50

Which taxes shall be by the respective
clerks taxed in the bill of costs.

No writ or declaration in ejectment, shall be issued or filed, by any clerk of the court of Common Pleas, unless the tax hereby imposed be paid down, and in all appeals, no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to the General Court, before the tax thereon be paid; nor shall any certificate under the seal of the court of Common Pleas be granted, until the tax thereon be first paid to the clerk keeping such seal.

**No dec'n
received, &c
til tax paid.**

**Clk. to keep
acpts.**

**When settle
and pay
treasurer.**

**Under penal-
ty &c.**

The clerks of the several courts of Common Pleas shall keep regular accounts of all monies, which they may or ought to have received, in pursuance of this law; and shall on every the first Tuesday of March and September, account with, on oath, and duly pay to the sheriff as treasurer of their respective counties, for the use thereof, the said several sums of money by them received, under the penalty of paying to the use of the county, for every default or neglect the sum of one hundred dollars, to be recovered with costs of suit, on motion of the sheriff as treasurer of the county; in the General court on giving ten days previous notice of such motion.

A L A W

To repeal "An act, to alter and repeal certain parts of an act, entitled a law to regulate county levies. Also to amend and alter the said law entitled a law to regulate county levies" and to enforce the collection of the county levies for the year 1809.

Passed July 20th, 1809.

Sec. 1 & 2, Is not in force.

**Shff. to val-
ue certain
property.**

Sec. 3. Be it further enacted, That so much of the eleventh section of the said law as requires the courts of Common Pleas to ap

point two freeholders in each township to value and apprise each house in town, town lot. Town out lot, and mansion house in the county and all water and wind mills shall be and the same is hereby repealed—and that the sheriff of the respective counties shall proceed to appraise and value the same in the same manner as the said freeholders were by the said law required to do. And the said county courts at the time when they are by this law required to lay the county tax, shall levy a sum not exceeding thirty cents on each hundred dollars of such appraised valuation.

Sec. 4. Be it further enacted that so much of the thirteenth section of the said law as authorises sheriffs of the several counties to issue certificates to sell merchandize shall be and same is hereby repealed. And that from henceforth, every possessor of merchadize shall previously to offering the same for sale by himself or agent, pay to the sheriff as treasurer the sum of fifteen dollars for the use of the county and take his receipt therefor, which he shall take to the clerk of the county court who shall thereupon file the same and deliver to the person producing the same a certificate in the form prescribed by the said law altering it howsoever so far as to mention that the tax for such certificate had been paid to the sheriff as it appeared by his receipt delivered to the said clerk and the said sheriffs and clerks shall keep seperate accounts of the monies received and certificates issued, noting therein the dates when paid and issued, and to whom, which accounts they shall deliver and produce to the county courts when required.

**Retailers of
mechandize
to obtain
license.**

Sec. 5 & 6, Is not in force.

**Shffs. com-
pensation.**

Sec. 7. The sheriffs shall be allowed in full compensation for their various duties under this law and the said law to regulate county levies ten per cent on all sums by them collected and paid.—

R O A D S.

AN ACT

For opening and regulating Public Roads and Highways.

Passed September 17, 1807.

**Pubc. roads
to be opened
&c.**

Sec. 1. All public roads or highways established by lawful authority, shall be opened, amended, and kept in repair, agreeable to the directions of this act, and the courts of common pleas in their respective counties, shall have authority, upon application, to make and enforce all orders necessary, as well for opening all new roads, which may be useful and

**C. of Q. S.
their power.**

convenient, as to vacate any public road, or part of any public road, which upon enquiry shall be found useless and burthensome, within the limits of their respective counties.

Sec. 2. That previous to any application being made to the court of Common Pleas, for an order to lay out any new road, every person through whose improved land such proposed road may be designed to run, who is known to be a resident in the same or adjoining county, shall have notice thereof, from some person about to apply for the same, or else a note in writing, expressing such intended application, under the signature of some one or more of the persons about to apply, shall be left at the house or last place of abode, or with the agent respectively of every such holder of improved lands; at least twenty days before the session in which such application shall be made; and further, such intended application shall be advertised in some public place in each township through which such proposed road may be designed to run, for thirty days prior to the session, as aforesaid, and similar advertisement shall be affixed and kept upon the court house door, for two days of the term in which application shall be made.

**When notice
to be given
& how.**

Sec. 3. Every application for any public road, shall be by petition, specifying particularly where such road begins, the remarkable places by which such road shall pass, and where the same shall terminate, presented to the court of Common Pleas, of the proper county, signed by at least twelve householders

**Application,
how made.**

**Costs how
paid.**

resident in the same county, three of whom shall be freeholders of the neighborhood, who shall be liable for the costs accruing on such petition, survey and view, unless the road so petitioned for, shall appear to the court from the report of the viewers to be of public and general utility, to the citizens of the county at large, when the costs attending the same shall be paid out of the county treasury.

**Court to ap-
point viewrs
& surveyor.
&c.**

Sec. 4. When any petition in form aforesaid is presented to any court of Common Pleas, within any county of this territory, praying for an order to lay out a new road, through any part of the said county, and the court be satisfied that the petitioners have given the necessary notice required by this act, the court shall order such petition to be publicly read in open court, and thereupon shall appoint three disinterested freeholders of the county, which said freeholders, or any two of whom, shall proceed to view the ground, on which such proposed road is to run, and also to appoint a skilful surveyor to accompany the aforesaid viewers, and to survey the said road, agreeably to the view of the aforesaid freeholders. It shall be the duty of the said viewers and surveyors at some convenient time before the next session, to repair to the place where such proposed road begins, and the said viewers shall with diligence and attention, examine the ground and lay out such road as nearly to the prayer of the petitioners as a passible way can be obtained, at a moderate expense, having special regard to continue the road in the same direction, as far as circumstances will admit; and not to take the same through any

**Their duty
&c.**

person's enclosure of one years standing, without the owner's consent, unless a preferable way cannot otherwise be had with convenience to the public; and the aforesaid surveyor shall take to his assistance two persons of honest reputation, as chain carriers, and he shall according to the view of the aforesaid freeholders, survey such road, conspicuously marking the same throughout, and truly noting the several courses and distance thereof, and at every mile's end, shall erect a monument expressing the number thereof, and shall protract a survey of the said road, which together with the proceedings of the aforesaid viewers, shall be certified respectively, and returned to the court of Common Pleas, next to be held for such county, and the court on receiving such return shall cause the same to be publicly read in open court on two different days of the same term, at which such return shall have been made; and if no objections are made to such proposed highway, on the second reading of the return aforesaid, it shall be the duty of the court, to order the said road to be opened a necessary width, not exceeding sixty-six feet, and made in other respects convenient for the passage of travellers; and cause a record thereof to be made, which shall thenceforth be deemed a public road.

Sec. 5. If any person through whose land any proposed public road may run, feels aggrieved thereby, such person may at any time before such road is recorded, and not afterwards, set forth his or her grievances, by way of remonstrance, against such proposed road, or any part thereof, presented to the court of

**Surveyors to
take assistants**

**courts on re-
ceiving the
returns, how
to proceed.**

**Persons ag-
grieved their
remedy.**

Take oath**Assess and re
port damages**

Common Pleas of the proper county, and the court shall nominate five disinterested freeholders of the county, who shall not be related to any of the parties interested in opening or objecting against such proposed road, and shall assign a day for such freeholders to meet, where such proposed road begins; it shall be the duty of such five freeholders respectively, having had five days previous notice, from either of the parties, to meet on the day, and at the place assigned by the court, and then, or on any other day, prior to the next session, to which the majority may adjourn, (having first taken an oath or affirmation before some person qualified to administer oaths, impartially to assess the damage or several damages, which any such objector or objectors may be likely to sustain by reason of such proposed road, in case the same should be opened, and continued through his her or their lands, to review such proposed road and take into their consideration, how much less valuable any tract of land, the property of such objector or objectors, will be rendered, by reason of such proposed road, should the same be opened, and continued through such tract respectively; and shall assess the damage or several damages accordingly, and report the same to the court of Common Pleas, next to be holden for the proper county; and if any three of them agree in assessing damage to the amount of the costs accruing on such remonstrance, the court may, if they consider it expedient, order the damage to be defrayed out of the county stock, or if that may be considered inexpedient, and the petitioners will defray the same, then, in

either case, such road shall be ordered to be opened, and a record thereof made, and the costs and charges having accrued in virtue of such remonstrance, shall be defrayed out of the county stock; but if three of such freeholders do not agree in assessing damages to the amount of the cost aforesaid, then such objector or objectors shall pay the costs and such proposed road shall be ordered to be opened and recorded, in like manner as though no objections had been made.

cost how py

Sec. 6. That objections in time and manner aforesaid, to any proposed public road may be made by any twelve freeholders, or householders, of the neighborhood, through which the same runs, on account of the same being likely to be useless and burdensome to the township respectively; and when such objections are made, the court shall proceed in like manner, by review thereof as prescribed in the last preceeding section of this act, and if the freeholders who review the same, or any three of them agree, that the said proposed road is likely to be useless and burdensome if it be opened and kept in repair by the public, then, unless the petitioners respectively will agree to open and keep in repair such proposed road, at their own private expence, all the proceedings shall be stayed, and the petitioners shall in either case pay the costs and charges which may have accrued; but if three of the aforesaid viewers do not report against such proposed road, as likely to be useless and burdensome, then the objectors shall pay the costs

**Objection to
road, how &
by whom
made.**

and charges, which shall have accrued on such review, and the said proposed road shall be ordered to be opened, and a record thereof made, and shall thenceforth be deemed the public road.

Roads running through lands how changed.

Court to appoint 3 freeholders.

Who shall examine and report.

Sec. 7. If any person through whose land any public road shall run, shall be desirous of cultivating such part of his land, it shall be lawful for such person or persons, to petition the court of Common Pleas, to permit him, her or them, at his, her or their own expences, to turn such road through any part of his, her or their own land, on as good ground, and without increasing the distance to the injury of the public, and upon such petition the said court shall appoint three disinterested freeholders, who shall proceed to view the ground on which the said road is designed to be turned, and measure the respective distance of that part of the road already established, and of the proposed way, until it shall intersect the road established as aforesaid; and at the next term of the said court, shall report the several distances, with their opinion respecting the ground on which such proposed road is to run; and if it shall appear to the satisfaction of the court aforesaid, that the ground on which such new part of the road is designed to run, is equally situated, and that the difference in the distance, will not materially injure the public; such court shall permit him, her or them, to turn such road, and on receiving satisfactory assurance that such petitioner or petitioners, have opened such proposed road, equally convenient for travellers, shall vacate so much of the former road as shall lie between the differen-

points of intersection, and record such new report, which afterwards shall be public road or highway.

Sec. 8. When any public road, or highway, shall be considered useless, and the repairing thereof be an unreasonable burthen to the Township, and any twelve freeholders or householders of such township, may make application in writing, signed by such persons, setting forth the situation and other circumstances of the road which they wish vacated, as aforesaid, in a clear and intelligible manner, which shall on the term in which it is presented be publicly read in open court on two different days of the court, and no further or other proceedings, shall be then had thereon, but the same shall be adjourned to the next court, when the same shall again be read in open court; when if objections are not made thereto in writing, signed by twelve freeholders, or householders, such court shall on any day in the same term, other than the first day of the same proceed to vacate such public road, or parts of public road, as aforesaid, and the costs and charges, shall be defrayed by the county; but if objections in manner aforesaid are made, the court shall proceed in like manner by viewers thereof, as they are authorised to do, in laying out of public roads and highways; and the judgment of any court of Common Pleas, as aforesaid, shall be conclusive in the premises, if the same be not appealed from in nine months after giving any such judgment.

**Useless roads
may be dis-
continued &
how.**

Sec. 9. An appeal from the proceedings of

Appeal allowed.

any court of Common Pleas, of any of the counties within this Territory, as aforesaid shall lie and be allowed to the general court of the Territory, which court shall, if the party or parties applying for the same enter into sufficient securities for costs and charges thereof, order and appoint another view of such road, and proceed thereon in like manner, as the courts of Common Pleas, are enabled by this act to proceed, and the determination and judgment of such general court shall be final: *Provided always*, That nothing in this act shall be understood to give authority to any court of Common Pleas, to vacate a street or highway, in any city borough, town or village in this Territory, which hath been laid out by the late proprietors thereof, or by any other person or persons, and dedicated to public use nor to vacate any road laid out by order of court, which is not repairable at public charge, nor any road or passage claimed by private right, nor to rivers, or streams of water.

No streets to be vacated.**Persons liable to work.**

Sec. 10. All male persons of the age of twenty one years and not exceeding fifty, who have resided thirty days in any Township of any county within this Territory, and who are not a county charge, shall be liable yearly and every year, to do and perform any number of days work, not exceeding twelve, whenever the supervisor of the district, in which he resides, shall deem it necessary: and it shall be the duty of every supervisor respectively, to call out every such resident aforesaid, when in his opinion it may be expedient to work on the public road or highway, within the division

respectively allotted to him; and if any such resident, having had three days notice thereof from the supervisor shall neglect or refuse to attend by himself or substitute to the acceptance of the supervisor, on the day and at the place appointed for working on the public road, with such necessary and common articles of husbandry, as the said supervisor shall have directed him to bring, wherewith to labor, or having attended, shall refuse to obey the direction of the supervisor, or shall spend, or waste the day in idleness, or inattention, to the duty assigned him; every such delinquent shall forfeit for every such neglect or refusal, the sum of seventy-five cents, to be recovered at the suit of the supervisor respectively, before any Justice of the Peace of the township, wherein the delinquent shall reside, to be appropriated towards repairing the public roads within the same township; and it shall be the duty of the court of common pleas, at the same time that they appoint supervisors, to apportion to each one, his part of the roads, and hands to assist in opening and keeping the same in repair.

**Supervisor
to give notice**

**Penalty on
failing to
work.**

**Court to ap-
portion road.**

Sec. 11. The court of common pleas of each and every county, at their first term to be held after the first day of January, yearly and every year shall appoint a necessary number of freeholders in each and every township, within their respective counties, to be supervisors of the highways; and the said supervisors of the public roads and highways of the several townships, shall and they are hereby required, and enjoined, as often as the said several roads

**To appoint
supervisors**

their duty.

and highways within their respective townships shall be out of repair, or as often as any new road shall be laid out, and directed to be opened by lawful authority, to hire and employ a sufficient number of labourers to work upon, open and amend, clear and repair the same, in the most effectual manner, and to purchase wood and all other materials necessary for that purpose, and to oversee the said laborers, keep them close to their business, and take care that the said roads and highways be effectually opened, cleared and amended, and repaired, according to the true intent and meaning of this act.

Sec. 12. And in order to enable the said supervisors the more effectually to discharge their duty, *Be it further enacted.* That it shall and may be lawful for the supervisors aforesaid, or any other person or persons, by his or their order and direction, to enter upon any lands adjoining to or lying near the public roads and highways, within their respective township, and to cut or open such drains or ditches through the same, as he or they shall judge necessary, completely to carry off and drain the water from such roads: *Provided,* The same be done with as little injury and damage as may be to the owner of such lands; which drain and ditches, so cut and opened, shall be kept open by the said supervisors, if necessary, and shall not be stopped or filled up by the owner, or owners of such land, or any other person or persons, whatsoever, under the penalty of five dollars for every such offence, to be recovered before any justice of the peace in any county, and to be applied to the

**ditch drains
&c.**

**Penalty for
filling drains
&c.**

purpose of opening and repairing highways in the district wherein the offence shall have been committed.

Sec. 13. The said Supervisors shall have full power and authority, on any improved ground or lands, adjoining the said public road or highway, within their respective townships, to dig, or cause to be dug, any gravel, sand or stone, or to gather any loose stones, lying on the said lands, or to cut down any wood, or trees, growing or adjoining to the said roads or highways, as he or they shall think necessary for the purpose aforesaid, *Provided*, The same be done with as little damage as may be to the owner or owners of such land; and the same sand, gravel, stones or wood, so dug, gathered or cut, to be carried off, without the let, hindrance or control of the owner.

**Supr. to dig
gravel cut
timber &c.**

Sec. 14. If any person or persons, working on the highways, or being with them, shall ask any money, or drink, or any other reward whatsoever, of any person passing or travelling upon the said public road or highway, he shall, for every such offence, pay the sum of one dollar, to be recovered by the Supervisor, or any other person suing for the same, before any justice of the peace, in the county, and applied to, and towards repairing the said highways, or public roads within the township wherein the offence shall have been committed; and in case any Supervisor shall connive at any person's asking and demanding any reward from any traveller as aforesaid, or shall him-

**Supvr. not to
suffer, nor la-
borers to ask
money of tra-
vellers un-
der penalty.**

self extort, or endeavor to extort any money, or other thing, from any traveller as aforesaid, every Supervisor, so offending, shall forfeit and pay for each offence, the sum of five dollars, to be recovered by any person whatsoever in manner aforesaid, one half of the use of the prosecutor, and the other half to, and for the service of the said road or highway.

**C. P. may
order bridges
built.**

Sec. 15. The judges of the court of Common Pleas, may cause any bridge or bridges to be built, over any creek or rivulet in the county, to which they belong, where they think such bridge of publick utility, and too expensive to be borne by the district in which it lies, for which purpose the said court shall agree with workmen for the building or repairing such bridge, or bridges, and the court shall make an allowance for the money becoming due, upon such agreement, and order the same to be paid out of the county treasury.

How paid for

**private cart
ways may be
opened and
how.**

Sec. 16. If any person or persons, shall, for the convenience of themselves, or neighbours, wish to have a cart road laid out, from, or to the plantation, or dwelling place of any person or persons, or to any public highway, or from one highway to intersect another; the person or persons applying for the same, shall advertise their intentions, as by this law is required in case of highways, and shall petition the court of Common Pleas of the proper county, who shall cause the same to be read in open court and shall order and direct a view of the place where such road is required to be laid out, and return thereof shall be made in the same manner as before directed by this act,

and if no objections be made thereto, the said court shall further order and appoint what breadth the said road shall be, so as the same shall not exceed thirty three feet.

Breadth.

Sec. 17. Every road or cart way, laid out in pursuance of this act, not exceeding thirty three feet in breadth, being first paid for by the petitioner or petitioners, for such road, shall be recorded, and from thence forward, shall be allowed and declared a common road, or cart way, as well for the use and convenience of the person or persons at whose request the same was laid out, as for the use and convenience of all such as have occasion to travel the same, and shall be opened and maintained by the persons petitioning therefor; *Provided nevertheless*, That if the said road shall be laid out through any person or persons improved land, then the same shall be valued as in this act is directed in case of persons objecting to public roads or highways, and on the value thereof being paid to the owner or owners of the land, by the person or persons at whose request the same was laid out, they shall have liberty to open said road agreeable to the order of the court.

To be recorded and how

How to proceed when going into improved lands.

Sec. 18. If any owner or owners of any land, through which such cart road may pass, shall be desirous of improving his, her or their lands, they shall be permitted to turn the same: *Provided*, The ground on which they propose turning it, is equally as good for a road, and shall not increase the distance more than one

How to turn cart way.

twentieth part thereof, or shall be permitted to hang swinging gates upon such cart road or roads, but shall at all times keep the said gates in good order and repair, under the penalty of one dollar for every offence to be recovered before any justice of the peace, in any county wherein the offence shall have been committed, by any person prosecuting for the same, one moiety thereof to the prosecutor and the other moiety towards keeping of said roads in repair.

**Supvr. to
have posts
erected.**

Sec. 19. It shall be the duty of each and every supervisor, within their respective districts to erect, and keep a post at the forks of every public road or highway within their respective districts, containing an inscription in legible characters, directing the way, and mentioning the most remarkable places on each road respectfully; and if any person shall demolish any such post, deface or alter any inscription thereon made, with an intent to destroy the utility of such design, he, or she so offending, shall for every such offence, forfeit and pay to the supervisor of such road respectively, the sum of ten dollars, to be recovered before any justice of the peace of the county, wherein the offence shall have been committed, for the use of such district respectively.

**Penalty for
defacing &c.**

**pulling down
advertisements.**

Sec. 20. If any person shall take down, obliterate or destroy, any advertisement or written notice, necessary to be put up, under the directions of this act, he, she or they so offending, shall for every such offence forfeit and pay the sum of ten dollars, to be recovered by indictment, before any court having cogni-

zance thereof, to be held in the county where the offence shall have been committed, to the use of the county respectively.

Sec. 21. If any person shall obstruct any road laid out, or to be kept in repair under the authority of this act, and shall suffer such obstructions to remain to the hindrance of passengers; every person so offending, shall for every such offence forfeit and pay a sum not exceeding one hundred dollars nor less than one dollar, to be recovered by action of debt, qui tam, or indictment, before any court having cognizance thereof, to be held in the county in which the offence shall have been committed; one half to the county respectively, and the other half to whosoever will sue for the same. But when the prosecution shall first be commenced in behalf of the county, the whole shall accrue to its use.

**Obstructing
roads how
punished.**

Sec. 22. Every supervisor shall be entitled to receive the sum of one dollar for each and every twenty dollars he shall collect, and one dollar and twenty-five cents for superintending the hands, not less than ten on each day, who shall commute their assessments by labor and such further compensation for his trouble, as shall appear reasonable to the court.

**Compensati-
on to superv.**

Sec. 23. In all cases when persons shall be committed to the supervisor to labor, by the authority of the laws of this territory, such supervisor may assign the proper portion of labor for such person to do and perform, or shall appoint a time and place for such person, so committed, to attend and perform the labor as

**Persons ad-
judged to
work on road
how to be
dealt with.**

aforesaid, and such service in either case being performed, such supervisor shall give such person his discharge accordingly.

Supervr. neglecting or refusing to discharge duty to be fined

Sec. 24. All and every supervisor or supervisors of the public roads and highways of this Territory who shall refuse or neglect to do and perform his or their duty, as directed by this act, shall on conviction by presentment or indictment before any court of record, be fined in any sum, not more than forty, nor less than five dollars, at the discretion of the court, and stand committed until payment thereof.

AN ACT

To amend an act, entitled "An Act for opening and regulating public roads and Highways."

Passed October 14th, 1808.

Sec. 1. WHEREAS, the expence of laying out public roads in the different counties, is found, not only burdensome, and a great means of draining the county treasuries of their funds, but is altogether useless and unnecessary.

BE it therefore enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same, That so much of the fourth section of the act to which this act is an amendment, as makes it necessary, and authorises the court to which application is made, to appoint a surveyor for any road about to be established, or which may hereafter be established; and so much of the said act as provides for, and allows a compensation to the supervisor, shall be, and the same are hereby repealed,

**Expence of
surveying &
compensation to supvr.
done away.**

Sec. 2. Whereas, by the act to which this is an amendment, it is, by the tenth section thereof, provided that all male persons of the age of twenty-one years, and not exceeding fifty, who have resided thirty days in any township in any county within this territory, and who are not a county charge, shall be liable, as in the said law is directed, to work on the public roads and highways: *And whereas,* Young men of the age of eighteen years, are equally able to work on the said roads and highways, as those above that age;

Be it therefore enacted, That all male persons between the ages of eighteen and fifty, years, shall be liable to work and labour on the public roads and highways, in the same manner, and for the same number of days as persons above the age of twenty one years, are, by the said act bound to work, on pain of paying the fine in the said law mentioned, which shall be recoverable in the manner

**Persons between 18 &
50 to work
on roads.**

therein mentioned, notwithstanding the non-age of the said person by this law made liable to work on the said roads and highways.

S E R V A N T S.

AN ACT

Concerning Servants.

Passed Sept. 17, 1807.

**Negroes in-
dented.**

Sec. 1. All negroes and mulattoes, (and other persons not being citizens of the United States of America) who shall come into this Territory, under contract to serve another, in any trade or occupation, shall be compelled to perform such contract specifically during the time thereof.

**Master to find
servant in
food &c.**

Sec. 2. The said servants shall be provided by the master with wholesome and sufficient food, clothing and lodging and at the end of

their service if they shall not have contracted for any reward, food, clothing and lodging, shall receive from him one new and complete suit of clothing suited to the season of the year, to wit: a coat, waist coat, pair of breeches, and shoes, two pair of stockings, two shirts, a hat and blanket.

Sec. 3. The benefit of the said contract of service shall be assignable by the master to any person being a citizen of this Territory to whom the servant shall in the presence of a Justice of the Peace freely consent, that it shall be assigned; the said Justice attesting such free consent in writing, and shall also pass to the executors, administrators and legatees of the master.

**Master may
transfer in-
denture.**

Sec. 4. Any such servant being lazy, disorderly, guilty of misbehaviour to his master, or master's family, shall be corrected by stripes, on order from a justice of the county wherein he resides; or refusing to work, shall be compelled thereto in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification, all necessary expences incurred by any master for apprehending and bringing home any absconding servant, shall be repaid by further service, after such rates as the court of Common Pleas, of the county shall direct, unless such servant shall give security, to be approved of by the court for the payment in money within six months, after he shall be free from service, and shall accordingly pay the same.

**Servts. lazy
or disorderly
to be whip-
ped &c.**

**Master ill
treating ser-
vant how re-
dressed.**

Sec. 5. If any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant it shall be redressed on motion, by the court of Common Pleas, of the county wherein the servant resides, who may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future.

**Contract be-
tween mast-
er and serv-
void.**

Sec. 6. All contracts between masters and servants, during the time of service shall be void.

**C. P. to hear
complaint of
servts.**

Sec. 7. The court of Common Pleas of every county shall at all times receive the complaints of servants, being citizens of any of the United States of America, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowances of food, raiment, or lodging, & may hear & determine such case in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, & may also in the same manner hear and determine complaints of masters and mistresses against their servants, for disertion without good cause, and may oblige the latter for loss thereby occasioned, to make restitution by further services after the expiration of the time, for which they had been bound.

**Servts. may
acquire and
hold goods**

Sec. 8. If any servants shall at any time bring in goods or money, during the time of their service, shall by gift, or other lawful means,

acquire goods or money, they shall have the property, and benefit thereof, to their own use; and if any servant shall be sick or lame and so become useless or chargeable, his or her master or owner shall maintain such servant, until his or her whole time of service shall be expired; and if any master or owner shall put away any lame or sick servant, under pretence of freedom, and such servant becomes chargeable to the county, such master or owner shall forfeit and pay thirty dollars, to the overseers of the poor of the county wherein such offence shall be committed, to the use of the poor of the county, recoverable with costs, by action of debt in any court of Common Pleas of this Territory, and moreover shall be liable to the action of the said overseers of the poor at the common law for damages.

**Masters put
ting off serv.
how punish
ed**

Sec. 9. No negro, Mulatto or Indian shall at any time purchase any servant, other than of their own complexion, and if any of the persons aforesaid shall nevertheless presume to purchase a white servant, such servant shall immediately become free, and shall be so held deemed and taken.

**Servts. of co
lor not to
purchase
white servts.**

Sec. 10. No person whatsoever shall buy, sell or receive of, to or from any servant any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant; and if any person shall presume to deal with any servant without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such servant,

**No to trade
with servant**

Penalty.

four times the value of the thing so bought, sold or received, to be recovered with costs by an action upon the case, in any court of Common Pleas of this territory; and shall also forfeit and pay the further sum of twenty dollars to any person who will sue for the same, or receive on his or her bare back, thirty-nine lashes well laid on, at the public whipping post, but shall nevertheless be liable to pay the costs of such suit.

**Persons fined
servts. whpd.
unless &c.**

Sec. 11. In all cases of penal laws where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every eight dollars, so that no servant shall receive more than forty lashes at any one time, unless such offender can procure some person to pay the fine.

**Servts. serving
time how to
proceed.**

Sec. 12. Every servant upon the expiration of his or her time, and proof thereof made before the court of Common pleas of the county, where he or she last served, shall have his or her freedom recorded and a certificate thereof, under the had of the Clerk, which shall be sufficient to indemnify any person for entertaining or hiring such servant; and if such certificate should happen to be torn or lost, the Clerk upon request, shall issue another, reciting therein the loss of the former; and if any person shall harbor or entertain a servant not having and producing such certificate, he or she shall pay to the master or owner of such servant one dollar for every natural day he or she shall so harbor or entertain such runaway, recoverable with costs, by action of debt,

Unless &c.

**How punish-
ed.**

in any court of Common Pleas of this territory; and if any runaway shall make use of a forged certificate, or after delivery of a true certificate to the person hiring him or her, shall steal the same and thereby procure other entertainment, the person entertaining or hiring shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, shall stand two hours in the pillory on a court day for making use of such forged or stolen certificate, and the person forging the same shall forfeit and pay thirty dollars, one moiety to the territory and the other moiety to the owner of such runaway, or the informer, recoverable with costs, in any court of Common Pleas in this territory; and on failure of present payment, or security for the same within six months, such offender shall receive thirty-nine lashes on his or her back well laid on, at the common whipping post; and where a runaway shall happen to be hired upon a forged certificate and afterwards denies the delivery thereof, the *onus probandi* shall lie upon the party hiring such runaway.

Person forging how punished

Sec. 13. If any slave or servant shall be found at the distance of ten miles from the tenement of his or her master, or the person with whom he or she lives without a pass or some letter or token, whereby it may appear that he or she is proceeding by authority from his or her master, employer or overseer, it shall and may be lawful for any person to apprehend and carry him or her before a justice of the peace, to be by his order punished with

Servts. traveling without pass how punished

stripes, not exceeding thirty-five, at his discretion.

**Servt being
on others
plantation to
be punished**

Sec. 14. If any slave or servant shall presume to come and be upon the plantation or at the dwelling house of any person whatsoever, without leave from his or her owner, not being sent upon lawful business it shall be lawful for the owner of such plantation, or dwelling house to give, or order such slave or servant ten lashes on his or her bare back.

**Riots how
punished**

Sec. 14. Riots, routs unlawful assemblies, trespasses and seditious speeches, by any slave or slaves, servant or servants, shall be punished with stripes, at the discretion of a justice of the peace, not exceeding thirty-nine, and he who will may apprehend and carry him, her or them before such justice.

**Harboring
servt finable**

Sec. 16. If any person shall harbor any servant or slave of color, who is bound to service, without the consent of his or her master first obtained, he or she so offending, shall be fined in any sum not exceeding one hundred dollars, at the discretion of the court to be recovered by indictment or information; and if any person shall aid and assist any servant, or slave to abscond from his or her master, upon conviction thereof, he or she so offending, shall be fined in any sum not exceeding five hundred dollars, at the discretion of the court, for the use of the party aggrieved, to be recovered as aforesaid.

**Assisting se v
ants to ab
scond finable**

AN ACT

To amend an act entitled "An act concerning Servants, and for other purposes.

Passed October 25th, 1808.

Sec. 1. Be it enacted by the Legislative Council and House of Representatives, and it is hereby enacted by the authority of the same, That if any person, or persons, shall permit, or suffer, any slave, or slaves, or servant servants of colour, to the number of three, or more, to assemble in his, her, or their house, out house, yard, or shed, for the purpose of dancing, or revelling, either by night, or by day, the person, or persons so offending shall forfeit and pay the sum of twenty dollars, with costs, to any person, or persons, who shall sue for, and recover the same, by action of debt, information, or indictment, in any court of record proper to try the same.

Persons suffering servant to assemble on premises for revelling fined how much and for what use

Sec. 2. Be it further enacted, That it shall be the duty of all Coroners, Sheriffs, Judges, and justices of the peace, who shall see or know of, or be informed of any such assemblage of slaves or servants, immediately to commit such slaves or servants, to the jail of the said county; and on view or proof thereof, to order each and every such slave or servant, to be whipped, not exceeding thirty nine stripes, on his or her bare back, on the day next succeeding such assemblage, unless it shall happen on a Sunday, then on the Monday following; which said strips shall be inflicted by

Peace officers to send such revellers to jail

And have them severally whipped

By whom

**Exceptions
when by
leave and
behaving well**

any Constable of the township, if there should be one therein, or otherwise by any person or persons whom the said justices shall appoint, and who shall be willing so to inflict the same: *Provided however*, That the provisions hereof shall not apply to any persons of colour, who may assemble for the purpose of amusement, by permission of their masters first had in writing, on condition that no disorderly conduct is made use of by them in such assemblage.

This act shall take effect, and be in force from and after the first day of January next.

S H E R I F F S.

AN ACT

*For the establishing of the Office of Sheriff,
and for the appointment of Sheriffs.*

Passed Sept. 17, 1807.

**Shff to be
appt'd**

Sec. 1. There shall be appointed and commissioned by the governor, under the seal of

the territory, a Sheriff, who shall give bond with two sufficient sureties, in the penal sum of four thousand dollars, for the faithful discharge of the duties of his office.

To give bond

The duties of each Sheriff shall be, to keep the peace by causing all offenders against law, in his view, to enter into recognizance, with sureties, for keeping the peace, and appearing at the next court of Common pleas in the same county, and to commit in case of refusal; and which recognizances shall by the said Sheriff, be returned and certified to the said court of Common pleas.

To keep the peace

**Recognize
Commit**

It shall also be his duty to quell and suppress all affrays, riots, routs and insurrections; and for which end, he shall, and is hereby empowered, to call to his aid the power of the county.

**To suppress
affrays &c.**

He shall pursue, apprehend and commit to Jail all felons and traitors; he shall execute all warrants, writs and other process, which by law shall appertain to the duties of his office, and which shall be directed to him by legal authority.

**To execute
writs and
process**

**To attend
upon courts**

He shall duly attend upon all courts of record, at their respective terms or sessions in his county: and shall have the custody of the jail of the county, and shall do and perform such other duties, as are or shall be enjoined on him by law.

**Have custody
of jails**

AN ACT

Regulating the duties of Sheriffs, and for other purposes.

Passed Sept. 17, 1807.

**Writs by
whom served**

Sec. 1. Every Sheriff or Corroner, himself or his lawful officer or deputies, shall from time to time, execute all writs and process to him legally issued, and directed within his county, or upon any river or creek adjoining thereto, and shall make due returns under the penalty of forfeiting one hundred dollars for every failure, one moiety to the use of the Territory, and the contingent expences thereof, and the other moiety to the party grieved, to be recovered with costs by action of debt, or information in any court of record in this territory out of which such process may have issued, and such sheriff or coroner shall be further liable to the action of the party grieved, at common law, for his or her damages, and for every false return, the sheriff or coroner shall forfeit and pay one hundred dollars, to be recovered, divided and applied in the manner last mentioned, and shall also be liable in like manner to the party grieved for damages.

Penalty

**Liable to ac
tion**

**For false re
turn liable**

**Persons in
exon dying
how to pro-
ceed**

Sec. 2. If any person being a prisoner charged in execution shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged, in execution for any debt or damages recovered, his or their executors, or administrators, may, after the death of the person so dying in execution

lawfully sue forth, and have new execution against the lands and tenements, goods and chattels of the person so deceased.

Sec. 3. If the lands, tenements or hereditaments, or goods and chattels taken by any sheriff or any other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence such execution issued, shall and may, and is hereby required to issue a *venditioni exponas*, to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might, and ought to have been had on the first execution, which writ of *venditioni exponas* shall be in the form following:

In case pro
perty not sell

Ve d expo
as to issue
clerk

Form thereof

"The United States, &c. Greeting
We command you, that you expose to sale the lands or goods and chattels, as the case may be, of A B, to the value of which according to our command you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices of our court, to satisfy C D, the sum of whereof in our said court he hath recovered execution, against the said A B, by virtue of a judgment in the said court, and that you have &c."

Section 4, superseded by act 26th Feb. 1810.

Sec. 5. If any sheriff or other officer, shall make return upon any writ of *feri facias* or *venditioni exponas*, that he hath levied

Shff. with
holding mo
ney

**Making im
proper re
turn**

**Or suffering
escape.**

**May be mo
tioned agst.**

**And judgt.
had him
self and sure
ties with in
terest**

Notice given

the debt damages or costs, as in such writ is required, or any part thereof and shall not immediately pay the same to the party to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for not performing a decree in chancery, for the payment of any sum of money, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the sum in such writ mentioned, and shall have actually received such money of the defendant or defendants, or have suffered him or them to escape, with the consent or negligence of such Sheriff or other officer, and shall not immediately pay such money to the party to whom the same is payable, or his attorney, then and in either of the said cases, it shall and may be lawful for the creditor at whose suit such writ of *feri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue upon a motion made in the next succeeding General court, or other court from whence such process issued, to demand judgment against such Sheriff or other officer, and the securities of such Sheriff or other officer, for the money mentioned in such writ, or so much as shall be returned levied on such writs of *feri facias* or *venditioni exponas*, with interest thereon at the rate of fifteen per centum per annum, from the return day of the execution, until the judgment shall be discharged, and such court is hereby authorised and required to give judgment accordingly, and to award execution thereon; *Paovided*, Such Sheriff or other officer, have ten days previous notice of such motion.

Sec. 6. *And whereas*, doubts have arisen in what manner judgment should be rendered against any sheriff or coroner who shall fail to return an execution to the office from whence it issued on or before the return day thereof: *Be it enacted*, That where any writ of execution or attachment for not performing a decree in chancery, shall come into the possession of any sheriff or coroner and he shall wilfully or negligently fail to return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon motion of the party injured to fine such sheriff or coroner at their discretion in any sum not exceeding five dollars nor less than two dollars per month, for every hundred dollars contained in such judgment or decree, on which the execution or attachment so by him detained was founded, and so on in proportion for any greater or lesser sum, counting the aforesaid month, from the return day of the execution or attachment to the day of rendering the judgment for the said fine, which fine shall be for the benefit of the party grieved.

Sec. 7. When any writ of *capias ad satisfaciendum* is issued against any person or persons out of any court of record within this territory, and he or they are taken by virtue of the same, and if the party at whose suit the said writ was issued after issuing of the same, shall by request of the prisoner, release said prisoners for the purpose of giving him or them further time to make the money thereon, it shall and may be lawful for the party at whose suit the execution was issued, at any

**Failling to re
turn exon.**

**Having no
tice**

May be fined

**Time given
prisoner not
bar other ex
ecution.**

time thereafter, to issue forth his or her writ of *capias ad satisfaciendum* or *fieri facias*, on the said judgment notwithstanding the release of the said prisoner or prisoners.

AN ACT

Prescribing the duty of Sheriffs in a certain case.

Adopted from the Georgia Code.

Passed February 26, 1810.

Be it enacted by the Governor and judges of the Illinois Territory, and it is hereby enacted by the authority of the same, That where any sheriff shall levy an execution on property claimed by any person not a party to such execution, such person shall make oath to such property, and it shall be the duty of the sheriff to postpone the sale or future execution of the judgment until the next term of the court, from whence the execution issued: and such court shall cause the right of property to be decided on by a jury at the same term, unless special cause be shewn to induce the court to continue the same for one term, and

Property taken
in execution
to be claimed
on the sheriff's
to postpone
sale

no longer: *Provided* the person, claiming such property or his attorney, shall give bond to the sheriff with security in a sum equal to the amount of the execution, conditioned to pay to the plaintiff all damages which the Jury on the trial of the right of property may assess against him in case it should appear that such claim was made for the purpose of delay, and every juror on the trial of such claim shall be sworn in addition to the oath usually administered to give such damages, not less than ten per cent, as may seem reasonable and just; to the plaintiff against the claimant, in case it shall be sufficiently shewn that such claim was intended for delay only, & it shall be lawful for such jury to give a verdict in manner aforesaid. By virtue whereof judgment may entered up and execution issued against such claimant. *And Provided also.* The burthen of the proof shall lay on the plaintiff in executin.

**The claimant
to give bond
and security
to prosecute
his claim.**

**Jury may as
sess damages
if the claim
be for delay**

The foregoing is hereby declared to be a law of this Territory and to take effect from the first eay of May next.

S U R V E Y O R S.

AN ACT

*For the appointment of Surveyors and their
Deputies, and for allowing them Fees.*

Passed Sept. 17, 1807.

**Gov. to ap-
point survrs.**

Sec. 1. A Surveyor shall be appointed in every county, and commissioned by the Governor, with reservation in such commission, for one sixth part of the legal fees, for the territory, for the yearly payment of which, he shall give bond with sufficient security to the governor, shall reside within his county, and before he shall be capable of entering upon the execution of his office, shall before the court of Common pleas of said county, take an oath and give bond, with two sufficient securities, to the governor and his successors in such sum as he shall direct, for the faithful execution of his office.

Take oath.

**Give bond &
security**

Sec. 2. All deputy surveyors shall be nominated by their principals, who shall be answerable for them, and if of good character

commissioned by the governor, and shall thereupon be entitled to one half of all fees received for services performed by them respectively, after deducting the proportion thereof due to the territory.

Sec. 3. If any principal surveyor shall fail to nominate a sufficient number of deputies to perform the services of his office, in due time, the court of Common pleas of the county shall direct what number he shall nominate, and in case of failure shall nominate for him: and if any deputy surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his office, sum of money in gross, or other valuable consideration to his principal for his recommendation, or interest in procuring the deputation, such principal and his deputy shall be thereby rendered incapable of serving in such office.

**When C. P.
to nominate**

**Deputy how
incapacitated**

Sec. 4. No survey shall be made without chain carriers, to be paid by the person demanding the same, and sworn to measure justly and exactly to the best of their knowledge, and to deliver a true account thereof to the surveyor, which oath every surveyor is hereby empowered and required to administer.

**Chain carriers
how paid**

Take oath

Sec 5. For every survey by him plain- D. C.
ly bounded, as the law directs,
and for a plat of such survey
after the delivery of such plat,
where the survey shall not ex-
ceed four hundred acres of land 5 25

**Survey plat
fees for**

For every hundred acres contained in one survey, above four hundred	25
For surveying a lot in town	1
And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be paid by the party who required the same to be surveyed	2 62
For running a dividing line	2 10
For surveying an acre of land for a mill	1 5
For every survey of land formally patented, and which shall be required to be surveyed, and for a plat thereof, delivered as afore said, the same fee as for land not before surveyed; and where a survey shall be made of any lands which are to be added to other lands in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to.	
And where any surveys have been actually made of several parcels of land adjoining, & several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such for	1 5
For running a dividing line between any county or township, to be paid by such county, or	

township, in proportion to the number of taxable inhabitants,	
if ten miles or under	10 50
And for every mile above ten	30
For receiving a warrant of survey and giving a receipt therefor	17
For a copy of a plat of land or a certificate of survey	25

Provided always, That where any person shall employ a surveyor, and shall have received a plat of land surveyed, and afterwards shall assign the plat of land to any other, either before, or after obtaining a patent for the same, if such person for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful for the sheriff or other officer of the county or corporation where such assignee shall reside; at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee in like manner as is herein after provided for surveyors, fees refused or delayed to be paid.

The surveyor of every county shall annually before the twentieth day of January deliver or cause to be delivered to the sheriff of every county his account of fees due from any person or persons, residing therein, which shall be signed by the said surveyor.

And the said sheriffs are hereby required and empowered to receive such accounts, and to collect levy and receive the several sums of money therein charged, of the persons chargea-

**Surv ys and
p ts made
an de i ered
& fterwards
assigned, the
shff. or other
officer a the
in ance of
su v may
distr as for
fe s delayed
to be paid**

**Fees due an-
nual de iv-
e ed to shff.
to collect**

**When shff.
t ess & s-**

ble therewith, and if such person or persons after the said fees shall be demanded, shall refuse or delay to pay the same till after the tenth day of April in every year, the sheriff of every county wherein such person resides, or of the county in which such fees became due, shall have full power, and he is hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county where such person resides or where the same fees became due.

**Time when
shff. to acpt**

**Refusing to
acpt. & pay
how proceed
ed against**

**Judgt. to be
granted and
exon. issued
Also vs exrs.
or adm. of
sheriffs.
Recpts. go d
unless denied
on oath**

Every sheriff of every county shall on or before the last day of May in every year, account with the respective surveyors for all fees put into his hands pursuant to this act, and pay the same abating six per centum for collecting and if any sheriff shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling or having any visible estate in his county, it shall and may be lawful for the surveyors, their executors or administrators, upon a motion made in the next succeeding General or Circuit court, or in the court of Common pleas of the county to demand judgment against such sheriff, for all fees, where-with he shall be chargeable by virtue of this act, and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon, *Provided*, The sheriff have ten days previous notice of such motion. The executors or administrators of any such sheriff or under sheriff, shall be liable to judgment as aforesaid, for the fees received to be collected by their testator intestate, and

not accounted for; every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

T A V E R N S.

AN ACT

To License and Regulate Taverns.

Passed Sept. 17, 1807.

Sec. 1. For preventing disorders, and the mischiefs that may happen by multiplicity of public houses of entertainment, no person or persons shall in future have or keep any public inn or tavern, ale house or dram shop, or public house of entertainment, in any county, town or place within this territory, unless such person or persons, shall first obtain permission or license from the court of Common pleas, which shall continue for one year and no longer, under the penalty of one dollar per day, for every day on which the party offending, shall keep such public inn, tavern, ale house,

**Publicans to
be licensed
by the courts
of common
pleas**

**under wh
penalties.**

dram shop, or public house of entertainment, to be recovered with cost, before any justice of the peace, in an action *qui tam*, two thirds whereof shall go to the use of the poor of the county, where the offence may be committed, and the other third to the prosecutor suing for the same, to effect.

**No disorderly conduct or unlawful games and r
pain of suppression and fine.**

Sec. 2. No person licensed as aforesaid, shall, knowingly suffer any disorder, as drunkenness, or unlawful games, whatever, in such his, her, or their houses, under the penalty of five dollars for the first offence, to be recovered as aforesaid, and for the second offence to be suppressed by the judges of the several courts; and no such inn-keeper, tavern-keeper, or other person as aforesaid, shall presume to continue such house of entertainment, of his own accord, after such suppression, or the expiration of his license, without new license, as aforesaid, under the penalty of one dollar per day as aforesaid, to be recovered in manner aforesaid, two third parts whereof shall go the use of the poor of the county, where the offence shall be committed, and the remaining third to the party prosecuting.

Good entertainmen to be provided under a penalty of 5 dollars

Sec. 3. All tavern-keepers, and inn-keepers, as aforesaid, shall provide and furnish good entertainment and accommodations for man and horse, under penalty of five dollars, to be recovered in manner and for the use aforesaid.

Fee on every license to the county and to the clerk.

Sec. 4. The said court shall at the time of granting any license under this act, demand of, and from the person obtaining the same,

any sum not exceeding twelve dollars, which they may deem reasonable, taking into consideration the stand, where such tavern is to be opened, which sum so received, shall, by the said court be paid to the county Treasurer, for the use of the county, and the said court shall also demand of such applicant, one dollar, for the use of the Clerk.

Sec. 5. No license shall be given, unless the person requiring the same, shall first become bound to the governor of the territory, with security if required, in any sum not exceeding three hundred dollars, that he, she, or they, on obtaining such license, shall at all times, be of good behaviour, and observe all the laws and ordinances, which are, or shall be made, or be in force relating to inn-keepers, or tavern-keepers, within the territory, and whoever shall keep a tavern, inn, or public house of entertainment, before he or she has given bond as aforesaid such person shall suffer the same penalty, as if the same had been done without license.

**No lic nse to
be given un-
less bond
with surety,
if required,
executed to
the governor
under a pen-
alty.**

Sec. 6. No person or persons, other than such as are, or shall be qualified so to do by this law, shall presume, under any colour or pretence, to sell, barter with, or deliver any Wine, Rum, Brandy, or other spirits, or strong water, Beer, Cider, or any mixed, or strong liquors, to be used, or within his, her, or their houses, yards or sheds, or to be with his, her, or their knowledge, privity, or consent, used or drank, in any shelters, places or woods, near, or adjacent to them, by companies of servants, slaves, or others, nor to retail, or sell,

**No person
unless quali-
fied by this
law to sell
liquors under
certain quan-
tities.**

**Penalty there
on**

**Re ailers and
publicans not
to harbor or
trust minors
servants &c.
on forfeiture
&c.**

to any person or persons, any Rum, Brandy, or other spirits, or strong water by less quantity or measure, than one quart, nor any Wine by less quantity or measure than one quart, nor any Beer, Ale or Cider, by any quantity less than two gallons, the same liquors being respectively delivered to one person, and at one time, without any collusion or fraud, contrary to the true intent and meaning of this law, every person offending herein, shall pay a fine of twelve dollars, on conviction, by indictment, to the use of the proper county.

Sec. 7. If any inn-holder, or keeper of public house, or any retailer of liquors, shall receive, harbour, entertain or trust any minor under the age of twenty one years, or any servant, knowing them, or either of them to be such, or after having been cautioned or warned to the contrary, by the present guardian, master or mistress, of such minor or servant, in the presence of one or more credible witnesses, such inn-holder, keeper of public house, or retailer of liquors, so offending, shall, for the first or second offence, being duly convicted thereof, forfeit and pay the sum of three dollars, for every such offence, over and above the loss and forfeiture of any debt such minor or servant, shall or may contract for liquors or entertainment, and upon conviction for the third offence, the license obtained by such offender, is hereby declared null and void; and the person so repeatedly offending, shall forfeit and pay the sum of twelve dollars, on conviction by indictment to the use of the county, and be forever after incapable of keeping a public house, or inn, within the territory.

Sec. 8. No person shall, by any means, presume to furnish, supply, or sell to any bond servant or slave, any rum, brandy, spirits, or any other strong liquors, or strong water, mixed, or unmixed, either within or without doors; nor shall receive, harbor or entertain any slave or servant, in or about his, her, or their houses without special license had and obtained under the hand of such master or mistress, of such slave or bond servant respectively, under the penalty for the the first offence of three dollars, and for every succeeding offence four dollars, to be recovered before any one justice of the peace of the county where the offence is committed, on the proof of one or more credible witnesses, or upon the view of any justice within the respective Counties where the fact shall be committed.

**Not to sell
&c. to bond
servants or
slaves, or har-
bor or enter-
tain them
without con-
sent of master
etc on for-
feiture etc.**

Sec. 9. The several fines imposed by this law shall on conviction be levied by execution on the offenders goods, or his, her, or their persons shall be committed to the county jail until the same be paid, and all fines and forfeitures recovered by virtue hereof, which are not otherwise appropriated by law shall be applied in manner following that is to say; one moiety thereof shall be paid to the father mother guardian, master or mistress of the minor or servant entertained as aforesaid, or to the servant himself as the justice of the peace may direct; the other moiety shall be paid to the Sheriff as treasurer, for the county where the offence was committed.

**Fines etc.
how levied
and disposed
of**

Sec. 10. The courts of Common pleas respectively at the time of granting any license

**Court to
make out a
list of rates**

**Publicans to
set up a copy
thereof in the
most public
room of his
house**

**P nalty on
neglect o sel
ling a high
er rates and
how recove
rable.**

or permission, under this act, shall make out a list of rates for the government of the Tavern-Keepers applying for the same, and it shall be the duty of the clerk of the Common pleas, at the time of granting such license or permission under the direction of the court aforesaid, to make out a copy of the rates and deliver the same to the person applying for permission or license to keep a tavern, who shall set the same up in the most public room in his, or her house, and any person who shall presume to sell at any higher rates than those made by the court or without having first set up his rates, as aforesaid, for every such offence shall forfeit and pay twenty dollars, for the use of the person suing for the same, before any justice within this territory.

TOWNSHIPS.

AN ACT

To authorize and require the Courts of Common Pleas to divide the counties into Townships, and to alter the boundaries of the same, when necessary.

Passed Sept. 17, 1807.

Sec. 1. The Judges of the court of Common Pleas in the several counties within this territory, shall in their terms respectively, proceed to divide the said counties into townships, assigning to such townships respectively, such limits and bounds, natural or imaginary, as shall appear to be most proper, having due regard to the extend of country and number of inhabitants residing within the same; and the said townships or any of them to subdivide from time to time, whenever the interest and convenience of the inhabitants thereof may seem to require it; and the said court of Common Pleas shall cause their clerk to enter of record on the docket of the same court, the particular time when each township is set off and the specific boundaries assigned thereto.

**C. C. Pleas
to divide
counties in-
to townships**

**May subdi-
vide them.**

**Clk to make
record there
of**

T O W N S.

AN ACT

Concerning the Town of Kaskaskia.

Passed December 15, 1814.

**Election for
trustees fi st
of ma ch
1815.**

**Owners of
lots above 21
years and re
sidents to
vote**

**Justice of the
peace to su
perintend
elections and
report it to
next court of
com. pleas**

Sec. 1. Be it enacted by the Legislative Council and house of Representatives, and it is hereby enacted by the authority of the same, That an election shall be held at the court house in the town of Kaskaskia on the first day of March next for three commissioners, for which every free white male inhabitant of the said town above the age of twenty-one years and owning a lot or lots in said town, shall be allowed a vote. The said election shall be superintended by a justice of the peace, who shall return to the next succeeding court of Common Pleas or county court for the county of Randolph the aggregate amount of votes for three successful commissioners, which shall be admitted to record, whereupon the said commissioners shall be authorised to lay out the streets for the town of Kaskaskia: *Provided however,* That no building or other

improvements shall be affected thereby without the consent of the owner or occupier thereof. And provided they shall be governed as near as may be (with the above exception) by the existing plan of the town, after which they shall make a plat of said streets and exhibit thereon the relative situation of the residents of said town which shall be presented as soon as may be to the court of Common Pleas or county court, who shall thereupon confirm and establish said town and have the plat thereof recorded.

Sec. 2. Be it further enacted, That each and every individual having a claim or title to any lot or lots or claiming and occupying any lot or lots in said town shall upon application to the court of Common Pleas or county court having given thirty days previous notice at the court house door of his intended application and have his or their said lot or lots condemned by said court as a part of the town aforesaid upon his or her or their giving bond with security to be approved by said court to pay to any person or persons who may hereafter exhibit a better claim to said lot or lots at the time of its or their condemnation, considering the same as unimproved: *Provided however*, That nothing herein shall be construed to affect the right of persons, who have both made improvements on the same lot or lots, or who have adverse claims to the same improvements, arising subsequent to the making of said improvements; but in all cases where the improvements have been made by any individual or other person under whom he or she claims, such individuals

**To lay out
the streets**

**To make a
plat of the
town**

**Persons claim-
ing and
occupying
lots may ap-
ply to the
court of com-
pleas to have
them con-
demned as
part of the
town**

**Give 30 days
notice**

**To give bond
to pay their
present value
to a better
claimant**

**Not to affect
them who
have made
improve-
ments on th
same lot.**

having their lots condemned shall be liable to pay to an adverse claimant with a better title the value of the lots in their unimproved state at the time of the condemnation thereof.

**To tax the
inhabitants
therefor**

Sec. 3. Be it further enacted, That the court of Common pleas or county court for the county aforesaid, shall allow the said commissioners a reasonable compensation for their services which said sum shall be collected of the inhabitants of said town by an apportionment to be made amongst them by the said court, which apportionment the said court is hereby authorised and empowered to make.

AN ACT

Concerning the establishment of Towns.

Passed Decr. 19, 1814.

**County court
may establish
town upon
application**

Sec. 1. Be it enacted by the Legislative Council an House of Representatives of Illinois Territory, and it is hereby enacted by the authority of the same; That the county courts in this territory, shall be and the same are hereby vested with full power and authority in all cases within the bounds of their counties, where they may seem necessary and advantageous for the same and the people at large, by

an order of court to establish a town and vest any particular tract or parcel of land in trustees for that purpose, on application of the proprietor of the land, and the court shall on such order ascertain by metes & bounds the quantities of land that they may deem necessary for such town, appoint the trustees, and fix the name by which it may be called, which order of court shall as effectually vest the land so allotted for a town in such trustees, as if done by an act of the legislature; *Provided however*, That no application shall be made to any court for an order as aforesaid, unless notice of such application shall have been given to the public by advertisement at the door of the court house of the county in which the land shall lie, for at least two months and twice a month for three months successively in the "Illinois Herald" or any other public paper in this territory previous thereto: *And provided also*, That no town shall be established on any land under this act, or any land laid off in addition to any town already established, to which any person or persons sets up a claim either in law or equity, without the consent of the adverse claimant or claimants. The land vested in trustees as aforesaid, shall be by them or a majority of them, laid off into convenient streets and lots, and shall be disposed of by them at public auction, for the best prices that can be had either in money or property, as the proprietors of said town may direct, having previously advertised such sale at the door of the court house two months. The said trustees shall take bond, with security or securities to be approved of by the proprietor for the payment of the purchase money to the proprietor, and

**Vest the land
in trustees.**

**Fix the name
of the town**

**Notice to be
given of the
application**

**Trustees to
lay off the
town**

sell the lots

**And convey
them**

**And make
regulation
for the gov
ernment of
the town**

**May fill va
cancies in
their board**

**Trustees to
have the
streets clean
ed and re
paired**

**Holders of
lots to elect
trustees when
they amount
to 15.**

deliver such bond to him. The said trustees shall convey the lots in fee simple to the purchasers and shall moreover have full power and authority to make such rules and regulations for the government of said town as shall appear necessary; *Provided* they are not contrary to the ordinance and laws of this territory; and shall settle and determine the bounds of all lots in said town, and fill any vacancy that may happen, by death, resignation, refusal to act, or removed out of the county, of any of the trustees so appointed or elected as hereafter directed.

Sec. 2. And the trustees of any town established by this act are hereby empowered to cause the streets of the said town to be cleaned and repaired by the inhabitants thereof, and if they or any of them, shall refuse to clean, or repair the part of said streets assigned them, it shall be lawful for the said trustees or a majority of them to hire the cleaning and repairing of said streets and levy the price thereof on the person or persons so failing and refusing, and in case they do not make payment immediately the said trustees are hereby authorised and empowered to recover the same before any justice of the peace of the county with costs, and each justice shall grant execution accordingly.

Sec. 3. When the holders of lots in any town established agreeably to this act, and actually therein shall amount to fifteen, they shall elect trustees of the said town on the first court day of the first court in every second year, and the trustees so appointed shall have the same powers as those appointed by the court.

Sec. 4. When any person shall apply to the court of any county to have a town established under this act it shall be the duty of such court, and they are hereby directed to take bond with security in the penalty of one thousand dollars payable to the justices of said court or their successors from the person applying, conditioned that if any person shall hereafter establish a better title either in law or equity to the land or any part thereof, on which said town is erected, that he shall pay & account to such persons establishing the better title, for all sums of money, for which the lots or the part of them included within the bounds of such better title were sold by the trustees, which bond may be put in suit by & at the expense of any person establishing a better title to the whole or any part of such land, from time to time until the whole of the money for which any lots included in the bounds of any such better title have been sold shall be recovered.

Sec. 5. Where any town has been established in this territory and the proprietor of the land adjoining the same, shall wish to add to or enlarge said town and having advertised the same agreeably to the direction of this act, the court of the county, in which the same is established or situate on this application are hereby authorised if they deem it necessary to add any particular tract or parcel of land to such town, or by order of court vest in the trustees, the same. Taking bond with approved security from the proprietor as in other cases, and the said trustees shall proceed to lay off the land into streets and lots and dispose of the same agreeably to the direction of this act. And where

The court to take bond from the applicant to refund if a better title be established

Bond to be sued by the person having the better title

Adjoining lands added to the town upon application

Their power and duty

any town has been heretofore established and not vested in trustees, or where the same has been vested, and the same trustees or a majority of them are dead or removed, it shall be the duty of the county court in which such town may be, on application of the proprietor or without, if it shall to them appear necessary, to appoint trustees for such town or towns and the lands appropriated by law shall be vested in the Trustees so appointed and such trustees shall have full power and authority to convey lots in like manner and possess the same powers as are given to other trustees by this act and where lots have been sold and not conveyed, the said trustees are hereby authorised and empowered to convey the same.

Fees of clk .

Sec. 6. The clerks of courts shall be entitled to the same fees to be paid and collected in like manner for the duties enjoined on them by this act as for services of a similar nature.

AN ACT

Concerning the Town of Shawanoe Town.

Passed Dec. 8, 1814.

Trustees appointed

Sec. 1. Be it enacted by the Legislative Council and House of Representatives of the Illinois territory and it is hereby enacted by the authority of the same, That the following per-

sons be and they are hereby appointed Trustees of the town of Shawanoetown to continue in office until the first Monday in November next, and until the Election of the successors as hereinafter provided (viz.) Henry Oldham, Thomas E. Craig, John Marshall, George W. Frazer & Joseph M. Street.

Election of successors.

Sec. 2. Be it further enacted that the holders of lots in said town being residents thereof or being in possession of any lot or lots, and holding a bond for conveyance, shall be and they are hereby authorised to elect five trustees annually on the first Monday of November. That it shall be the duty of the sheriff of Gallatin county to give twenty days previous notice in writing at the door of the court house of said county, that such an election will be holden, and also to superintend and conduct the same, and may employ a clerk to assist him in keeping the poll, for which services compensation shall be made by the trustees.

Resident holders of lots to elect 5 trustees

Sheriffs to hold elections and employ a clerk.

Sec. 3. Be it further enacted, That the trustees shall have power to appoint a clerk to their board, and annually to appoint an assessor, whose duty it shall be to value and assess all the lots in said town and make a return thereof to the trustees, having previously taken an oath before some justice of the peace truly and impartially to perform the same; but in valuation of said lots the houses and other improvements erected thereon shall not be taken into consideration.

Trustees may appoint a clerk to the board and an assessor his duty

**Trustees to
levy a tax**

Sec. 4. Be it further enacted, That upon the return of such list of taxable property by the assessor the trustees shall levy a tax thereon, at a rate not exceeding two per centum per annum on the valuation of said lots, for surveying the town; paying the expense of their officers, and clearing and keeping in repair the streets and such other improvements as may be deemed expedient and necessary by the board of trustees.

**Repairing
streets****Trustees to
appoint a
collector**

Sec. 5. Be it further enacted, That it shall be the duty of the board of trustees annually, after the assessment shall have been made as aforesaid, to appoint a collector, who shall before he enters on the duties of his office, give bond and security to the trustees or a majority of them in double the sum to be collected, conditioned for the faithful collection and accounting for the same according to law. The said collector shall by sale of the lots or otherwise collect and account with the trustees for the amount of the taxes put into his hands for collection within three months from the time of the list of assessment being put into his hands for collection, for the collecting of the said taxes the trustees shall allow the said collector six per cent on the amount collected. The said collector shall make personal application to the person or persons charged with the tax in the list of assessment, if they be residents of said town, before he shall expose to sale any lot or other property to make the amount of the tax due from such inhabitant & if the amount be not paid to the collector within one month after such application, it shall and may be lawful for the collector to seize

His duty**His allowance**

any personal property of any such delinquent, which he may find in said town; and after having given ten days previous notice in writing at some public place in said town, to make sale thereof or so much as will pay the tax and costs of keeping the property, and in case the collector cannot find any property whereof he can make the taxes due from any person charged with the taxes aforesaid, it shall and may be lawful for the collector to sell the whole or so much of each lot at public sale, after having given twenty days previous notice in writing in three of the most public places in said town, as will pay the tax due thereon, and shall give the purchaser or purchasers a certificate thereof which shall vest the title completely in whose name soever the same may be sold, unless the same may be redeemed by the owner by paying to the purchaser within twelve months after such sale the amount of the purchase money with twenty-five per cent thereon.

**Seize and sel
personal pro
perty**

Sell lots

Sec. 6. Be it further enacted, That on the death, resignation or removal of any one or more of the trustees, the vacancy shall be filled by the remaining trustees, who shall appoint a successor or successors to continue in office until the next election and in case there should not be an election held for trustees at the time appointed by this act the last trustees in office shall continue in office until the next annual election.

**Vacancy filled
by remain
ing trustees**

Sec. 7. Be it further enacted, That the trustees of the said town or a majority of them shall have power and authority to make such bye laws, rules and ordinances for the good

**Trustees t
make by
laws &c.**

**Procure a
burying
ground**

regulation of the said town as shall to them seem meet (if not inconsistent with the laws of this territory or the ordinance) and cause the same to be published in the most public places in said town from time to time for the information of the citizens thereof, and it shall be the duty of the said trustees to procure some convenient piece of ground and cause the same to be enclosed for a public burying ground. And it shall moreover be the duty of said trustees to cause the said town to be surveyed and a plan thereof recorded in the recorder's office of Gallatin county, and may provide for affixing posts or stones at the corner of each square or lot to perpetuate the same; and may appoint one or more of the trustees to superintend the surveying the same.

**3 trustees con
stitute a
board**

Sec. 8. Be it further enacted, That any three of the trustees may and shall be sufficient to constitute a board.

This act to be in force from the passage thereof.

T R E S P A S S .

AN ACT*Concerning trespassing Animals.**Passed Sept. 17, 1807.*

Sec. 1. If any horse, mare, colt, cattle, sheep or hogs, shall trespass, by breaking into the lawful enclosure of any person or persons, every such person being injured by such trespass, may seize and distrain such trespassing creature, and the same so seized, and distrained, may retain until he, she or they, shall recover and receive the damages sustained by such trespass, together with the costs of advertising, and reasonable charges for keeping such distress, in manner herein after directed.

**Trespassing
animals may
be distrained**

Sec. 2. Every person or persons making such distress, shall, within the space of forty-eight hours after the same shall be made, give notice thereof to the owner or owners of such horse, mare, colt, cattle, sheep, lamb, or hog if he she or they can be conveniently found; but if not, then such person or persons, seizing or distraining such creature, shall, within

**Notice of
distress to be
given to owner**

**proceedings
after notice**

three days after the distress taken, as aforesaid, cause an advertisement of the marks, brands, stature and colour thereof, and of the place where the same may be found, to be affixed in a conspicuous manner, at the most public place of his, her or their township; and if, upon such notice, or advertisement, such owner or owners shall appear, but neglect, or refuse to make, or tender a reasonable satisfaction to the party injured, for the damages sustained by such trespass, and in keeping the said creature; or if the said person or persons, so making the distress, shall not accept the said satisfaction, it shall and may be lawful for either of the parties aforesaid, to complain and apply to any justice of the peace, of the county, where such creature shall be seized and distrained, as aforesaid, who shall upon such complaint, and application, issue his warrant, directed to any two honest and reputable freeholders of the neighborhood, commanding and enjoining them forthwith, to view the said trespass, and to value, appraise, and ascertain the injury or damage done to, or within the enclosure aforesaid, having regard to the lawfulness of said fence, with the expense and costs of keeping the said creature, and to make report thereof to him the said justice, with all convenient speed, which said valuation and appraisement, and return, they, the said freeholders, are hereby required, and enjoined, to make accordingly — and if the said valuation and appraisement, shall not amount to more than the sum of money tendered to the party injured, as a recompence for the damage done as aforesaid, before such complaint made, then the said justice shall give judgment for the

**How satisfaction to be
made**

same only, to the party refusing such tender and award reasonable costs and charges to the other party, for the unjust vexation; but if the said valuation shall amount to more than the sum tendered, or if no such tender be made, then, and in that case, the said justice shall award and give judgment for the valuation aforesaid, to the party injured, with reasonable costs and charges, for keeping the said creature, so trespassing against the other party, and shall award execution upon every such judgment, with costs of suit accordingly.

Sec. 3. Whoever shall hurt, kill or do damage, to any horse, mare, colt, cattle, sheep, lamb, or hog, by hunting or driving them out of, or from the said enclosure, or by neglecting to provide them sufficient food and water, after they may have been distrained, shall be liable to make good all damages sustained thereby, to the owner of such creature or creatures.

**Damages on
hurting or
killing anim
als &c or not
providing
them with
sufficient
food after
distress made**

Sec. 4. If no owner or owners appear and make out, his or their property in the said creatures, within two weeks after such advertisements shall be published in the township, as aforesaid, the person or persons making such distress, shall forthwith under the penalty of twelve dollars, cause the like advertisement to be published three times successively, in one or more news-papers or gazettes printed & published within this territory provided there is a gazette or news-paper then printed and published within the county, wherein the trespass shall happen; But in case of no such public paper, then such advertisement shall be put up in a conspicuous manner at the court house door of

**Proceedings
in case no
owner ap-
pears**

the county; and the party distraining shall make application, at the expiration of two months after the publication of the same advertisements, to the said justice of the peace, who is hereby authorised and required, to issue his warrant to two honest and respectable freeholders, and cause them upon their oath or affirmation, which he is hereby empowered and required to administer to them, to view, value, and appraise the creature or creatures so distrained, and to ascertain the damages so done, as aforesaid, with reasonable charges for keeping the said creature, and to make return thereof, to him as aforesaid, upon which valuation and return, the property of, and in the said creatures, so valued, shall become, and be held and taken to be, and is hereby vested in the person so making such distress; but so nevertheless that he shall be answerable and accountable to the owner or owners aforesaid, for the valuation money aforesaid, at any time afterwards within the space of one year, next after the publication of shch advertisement, last aforesaid, having first deducted thereout, the cost of such proceedings, advertisements, and charges of keeping the said creature with the damages so ascertained. But if the said owner or owners shall not appear and demand the same within the time limited, last aforesaid, then the said person or persons so making the said distress, shall, upon demand made, pay all such overplus money to the sheriff of the county for the use of the county, under the penalty of double the sum retained in his her or their hands, contrary to the direction of this law.

Proviso

Where owner appears within one year.

Sec. 5. If any such person or persons so

distraining, shall neglect, to give such notice, as herein before directed, or shall neglect to set up, and publish such advertisements in the most public places of his, her, or their township he, she, or they, shall forfeit and loose, all right or title or pretence of right, to a recovery of any sum or sums of money for such trespass, or any recompense for the same; but shall deliver up the said creature so distrained, to the owner or owners thereof, without any recompense or reward whatsoever; and that one half of all the fines imposed by virtue of this law, shall be to the use of the owner, or owners of such creature and the other half thereof to the use of the county, to be recovered by them or either of them, in a summary way, as debts not exceeding eighteen dollars, are by law directed to be recovered.

Sec. 6. If any person or persons shall knowingly, and wittingly, keep and retain any horse, mare, colt, cattle, sheep, lamb or hog, within his, her or their enclosures, for the space of forty-eight hours, without giving the notice and publishing the advertisements aforesaid, every such person or persons, shall forfeit and pay the sum of twelve dollars for every such offence to be recorded and applied in manner aforesaid.

If party distraining neglects to give notice, owner to have restitution without expence.

All fines to go to the owner of certain animals & the poor. How recovered

Penalty on detaining animals within enclosures for 48 hours, without giving notice &c.

AN ACT

*To prevent Trespassing by Cutting of
Timber.**Passed Sept. 17, 1807.***Eight dol-
lars penalty
for cutting,
certain timber**

Sec. 1. Every person who shall cut, fell, box, bore or destroy any Black Walnut, Black, White, Yellow, or Red Oak, White Wood, Poplar, Wild Cherry, Blue Ash, Yellow, or Black Locust, Chesnut, Coffee, or Sugar tree, or sapling standing or growing upon land belonging to any other person or persons, without having first obtained permission so to do, from the owner or owners of such lands, shall forfeit and pay for such tree or sapling, so cut, felled, boxed, bored, or destroyed, the sum of eight dollars; and every person who shall cut, fell, box, bore or destroy any tree or sapling not herein above named and enumerated, standing or growing upon land belonging to any other person or persons, without permission as aforesaid, shall forfeit and pay for every such tree or sapling, so cut, felled, boxed, bored, or destroyed the sum of three dollars.

**Three dollars
penalty for
all others****Penalties how
recovered**

Sec. 2. The penalties herein above provided, shall be recoverable with costs of suit, either by action of debt, in the name, and for the use of the owner or owners of the land, or by action *qui tam*, in the name of any person

who will first sue for, and recover the same, the one half for the use of the person so suing, and the other half for the use of the owner or owners of the land: *Provided always*, That if in any action that may be instituted by virtue of the provisions herein contained, before a justice of the Peace, the defendant shall set up a title to the land on which the tree or trees, are alledged to have been cut, felled, boxed, bored or destroyed, and shall forthwith give good and sufficient security to prosecute his claim or title to the said land to effect, within one year; or to appear and defend an action to be instituted against him within one year, by virtue of the provisions herein contained, in any court of record within the territory, having cognizance thereof; and in either case to abide by, and satisfy the judgment that may be given in such court, then the said justice shall proceed no further in the said cause, but shall forthwith dismiss the parties, and it shall be the duty of the said justice thereupon to tax the bill of costs, that may have accrued before him; and so soon as the action shall be renewed, or instituted for the purpose aforesaid, to transmit the said bill, together with the recognizance to be taken as aforesaid, to the clerk of the court, in which such action shall be instituted or renewed, which costs so taxed and transmitted, shall be made a part of the judgment, to be rendered as aforesaid.

If defft. sets up a title to the land, and give security how to proceed

Sec. 3. If the said recognizance shall be forfeited for not prosecuting as aforesaid, the justice shall proceed to enter judgment against the defendant, for the demand of the plaintiff,

Upon forfeiture of recognizance, how to proceed

which shall be taken to be confessed, and execution shall thereupon issue against the said defendant and his security or securities; and if the said recognizance shall be forfeited for not appearing and defending, or for not abiding by, and satisfying the judgment that shall be given in the court above, the party for whose benefit such recognizance was taken, may, by a writ, or writs of *scire facias*, proceed to judgment and execution thereon.

Penalty for cutting &c certain trees on lands secured for public uses

Sec. 4. If any person or persons, shall, after the passing of this act, under pretence of any lease, or otherwise, cut, fell, box, bore, or destroy, any Black Walnut, Black, White, Yellow, or Red Oak, White Wood, Poplar, Wild Cherry, Blue Ash, Yellow or Black Locust, Chesnut, Coffee, or Sugar tree, or sapling, standing or growing upon any lands within the territory, reserved, appropriated, or intended for the use and support of schools, or for the use and support of religion; such person or persons shall forfeit and pay, for every such tree or sapling, so cut, felled, boxed, bored, or destroyed, the sum of eight dollars; and if any person or persons, shall cut, fell, box, or bore, or destroy, any other tree or sapling, not herein above named and enumerated, standing or growing upon any lands, within the territory, reserved, appropriated, or intended for the use aforesaid, such person or persons, shall forfeit and pay for every such tree or sapling, so cut, felled, boxed, bored, or destroyed, the sum of three dollars.

Penalties how recovered & appropriated

Sec. 5. The penalties provided in the preceding section of this act, shall and may be re-

covered with costs of suit, either by action of debt, brought by, and in the name, or names of the overseer, or overseers of the poor, of the township in which such tree or sapling, shall have been cut, felled, boxed, bored, or destroyed, as aforesaid for the use of the poor of the county; or by action *qui tam*, in the name of any other person who will first sue for and recover the same; the one half for the person so suing and recovering, and the other half for the use of the poor of the county in which such tree or sapling, shall have been cut, felled, boxed, or bored or destroyed; and it shall be the duty of the overseers of the poor, on complaint made to him or them, against any person who may have cut, felled, boxed, bored or destroyed, any tree or sapling, standing or growing upon any lands reserved for the uses aforesaid, within his or their township, or upon his or their view or knowledge of such trespass, forthwith to institute an action against the trespasser for the purpose aforesaid, unless an action *qui tam* shall have been previously instituted for the said trespass, in the name of some other person, according to the provisions herein contained; and the said overseer or overseers, in the settlement of his or their accounts, shall be allowed a reasonable credit for the trouble and expense of such prosecution; *Provided always*, That nothing herein contained shall be construed to prevent ministers of the gospel from settling and improving any lands reserved for the use of religion.

**Overseers of
the poor's
duty to pro-
secute**

**To receive
compensation**

**Not to ex-
tend to min-
isters of the
gospel**

Sec. 6. Nothing herein contained shall be so construed as to prevent persons now holding

**Nor to pre-
vent settlers
thereon &c.**

by lease, lands in the college township, or other lands appropriated for schools, and religious purposes, within this territory from cutting and using timber agreeably to the tenor of such lease, nor shall it prevent the present settlers thereon from cutting timber on such parts thereof, as they shall inclose and improve, until after such regulations as shall be made by the legislature of the territory are brought into operation.

**Not to oper-
ate on settlers
ignorant of
the land
being owned
by others**

Sec. 7. No part of the said recited act, shall be so construed as to effect such inhabitants in the said territory, who may have settled on lands by mistake or the owner or owners of which are unknown to them, so far as the said act relates to the penalties herein specified.

V A G R A N T S.

AN ACT

Concerning Vagrants.

Passed Sept. 14, 1807.

Sec. 1. Be it enacted by the Legislative

Council and House of Representatives, and it is hereby enacted by the authority of the same, That every person who shall be suspected to get his livelihood by gaming, and every able bodied person who is found loitering and wandering about, not having wherewithal to maintain himself by some visible property, and who doth not betake himself to labour, or some honest calling to procure a livelihood; and all persons who may be found being, and who quit their habitations, and leave their wives and children without suitable means of subsistence, whereby they suffer, or may become chargeable to the county; and all other idle, vagrant and dissolute persons, rambling about without any visible means of subsistence, shall be deemed and considered as vagrants.

**Vagrants
gamesters
and straglers**

**Dissolute life
and deserting
family.**

Sec. 2. When any such person is found in any county, any justice of the peace, shall, from information, or from his own knowledge, issue his warrant, to the Sheriff or constable, to bring such person before him; and if upon such examination it shall appear to such justice, that he comes within the description of vagrants, agreeably to this act, he shall commit him to the jail of the county, until the next court of Common pleas, unless he enter into bond to the Governor in the sum of fifty dollars, with sufficient security, to be adjudged of by the justice, for his appearance before the said court, and there to abide the determination thereof. If upon examination it appears to the said court, that such person is within the description of vagrants, and is a minor, they shall direct the Sheriff to bind him to some

**Justice to is
sue wart.**

**On exam. if
a vagrant to
be committed
or give bond
to govr. et**

**If minor va
grant how to
proceed**

person of useful trade, or occupation, until he shall arrive at the age of twenty-one years, and if such apprentices desert their masters, they shall be dealt with as other apprentices who leave their masters before the expiration of their apprenticeship. But if such vagrant be above the age of twenty-one years, the said court shall direct the sheriff to hire him out for any term not exceeding nine months: *Provided however,* That if such person have a wife, or family, within the county, he shall be set at liberty on his entering into bond with approved security, by the court, payable to the justices thereof, to return to his wife and family, and follow some useful employment, for their maintenance and support.

**If married be
liberated giv
ing bond etc.**

**Shff. have
sentence ex
ecuted**

Sec. 3. When no person will hire a vagrant when deemed such by the court, or will not take him, only by furnishing him with such diet and clothes as may be necessary for him during his servitude, the court shall order such vagrant to receive any number of lashes not exceeding thirty-nine, on his bare back, and the sheriff shall see the same executed accordingly.

**Hire of vag
rant how
applied**

Sec. 4. The money arising from the hire of any vagrant shall be applied by the court towards the payment of his debts; but if he shall not be indebted, or owe to the amount of his hire, the same, or the balance thereof shall be paid to such vagrant at the time his service expire; unless he has a wife, or children, in which case it shall be applied to their use. When any vagrant shall have entered into bond with security as last mentioned, to the

**Vagts. bond
forfeited
how crt to
procd.**

justices, and the penalty thereof shall become forfeited, the court shall direct an execution to issue thereupon against the goods, chattels, lands and tenements of such security, and the sheriff shall make distress, and collect the amount as on other executions, and the money arising therefrom shall be applied towards lessening the county levy.

**Collected by
shff. &c.**

Sec. 5. All the justices of their respective counties shall see this act executed, and all sheriffs and constables within the several counties shall give information to such justices of all vagrants that may be within their knowledge in their respective counties; and grand jurors impannelled for any county shall make presentment of all such persons within the county, as they may suspect to be vagrants agreeably to this act, and upon such presentment the court shall direct some justice of the peace to issue his warrant to bring such suspected person before him, and if upon examination it appears that they come within the description of vagrants, the same steps shall be taken against them, as are heretofore directed to be taken against vagrants.

**Jus. see act
executed**

**Shff. & con
stable give in
formation of
vagrants**

**Grand jury
present vag.
Crt. direct J.
to issue wart.**

**If vag. pro
ceeded with
as before
stated**

This act shall commence and be in force from and after the first day of January next.

VICE & IMMORALITY.

AN ACT

For the prevention of Vice and Immorality.

Passed Sept. 17, 1807.

**Sunday or 1st
day of the
week how to
be kept and
observed un-
der what pen-
alties.**

Sec. 1. If any person shall be found reveling fighting or quarrelling, doing or performing any worldly employment, or business whatsoever, on the first day of the week, commonly called Sunday (works of necessity or charity only excepted) or shall use or practise any unlawful game, sport or diversion, whatsoever, or shall be found hunting or shooting, on the said day, and be convicted thereof; every such person, so offending, shall for every such offence, forfeit and pay a sum not exceeding two dollars, nor less than fifty cents, to be levied by distress; or in case such person being a male, shall refuse or neglect to pay the said sum; or goods and chattels cannot be found whereof to levy the same by distress, he shall be committed to the charge of one of the supervisors of the highways, in the township wherein the offence was committed, to be kept at hard labor for the space of two days: *Pro-*

vided always, That nothing herein contained shall be construed to hinder watermen from landing their passengers, or ferrymen from carrying over the water, travellers, or persons removing with their families, on the first day of the week, commonly called Sunday.

**Proviso in
favor of ferry
men.**

Sec. If any person of the age of sixteen years and upwards, shall profanely curse, damn or swear, by the name of God, Christ Jesus, or the Holy Ghost; every person so offending, being thereof convicted, shall forfeit and pay for every such profane curse, damn, or oath, a sum not exceeding two dollars, nor less than fifty cents, at the discretion of the Justice, who may take cognizance thereof; and in case he shall refuse or neglect to pay the said forfeiture; or goods and chattels cannot be found, whereof to levy the same by distress, he shall be committed to the charge of one of the supervisors of the highways of the township where the offence was committed, to be kept at hard labor for the space of two days for every such offence, of which such person shall be convicted.

**Profane
Persons swea-
ring what**

**And how
punished**

Sec. 3. If any person shall presume to appear before any court of justice within this territory, before any judge or justice of the peace, when acting as such, or before any congregation, assembled for public worship, and there make use of profane swearing, or other disorderly behavior, the effect of which would have an evident tendency to disturb that good order, to be observed on those occasions; if before a court of justice, he shall be fined in any sum not exceeding

**Swearing &
disorderly be-
havior before
congrega-
tions &c.
what and
how punished**

fifty nor less than five dollars; if before a Judge or Justice of the Peace, he or she shall be fined in any sum not exceeding ten, nor less than three dollars; if before any congregation assembled for divine worship, he, or she so offending, shall be fined in any sum not exceeding ten, nor less than three dollars; and it shall be the duty of any Justice of the Peace within this Territory, the same coming within his knowledge, or upon information by one or more credible witnesses, to issue his warrant and have the offender brought forthwith before him, and shall immediately assess his fine and for want of sufficient goods and chattels, belonging to the defendant, to be by him shewn to satisfy the fine and costs, aforesaid, the said Justice shall commit the offender to the jail of the proper county where the offence was committed: *Provided*, That nothing herein contained, shall be so construed, as to prevent any court of justice from punishing the like offenders, in the manner herein before mentioned.

**Proviso in
favor of courts
of justice**

Sec. 4. If any person of the age of sixteen years or upwards, shall be found in the public highway or in any public house of entertainment, intoxicated by excessive drinking of spiritous, vinous, or other strong liquors, and making or exciting any noise, contention or disturbance, it shall be lawful for any Justice of the Peace, on complaint or view, to cause such person or persons to be committed to the common jail of the county, there to remain for a term of time not exceeding forty eight hours; and every person so committed, shall pay the fees arising on such commitment; and if any person shall

**Drunkenness
wha and
how punished**

be found offending as aforesaid, at any greater distance than five miles from the county jail; it shall be lawful for any justice of the peace, to commit such person or persons to the custody of any constable within the township, for the like term of time, to be by such constable confined in any proper and convenient place, for the like term of time; and the said constable shall be entitled to receive the same fees, as are allowed to the keeper of the jail in the like cases.

Sec. 5. Every Judge of the court of Common pleas, and every justice of the peace, within the limits of their several jurisdictions, are hereby empowered, authorised & required, to proceed against, and to punish all persons offending against the preceeding sections of the law, and for that purpose each of the said judges or justices, severally, may convict such offenders upon his own view and hearing, or shall issue if need be, a warrant, summons or capias, according to the circumstance of the case, to bring the body of the person accused, as aforesaid, before him; and the same judges or justices, shall respectively, in a summary way, enquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, or the confession of the party, shall convict the person who shall be guilty as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted as herein before directed; and if the person so convicted, refuse, or neglect, to satisfy such forfeiture immediately, with costs, or to produce goods and chattels, whereupon to levy

Judges and justices to take cognizance

May convict on view

In a summary way

And pronounce judgment

Failing to satisfy fine, to work on public highways

the said forfeiture, together with costs, then the said judge, or justice shall commit the offender to one of the supervisors of the highways, as aforesaid during such time as is herein before directed; and every such conviction may be in the following words, to wit:

Form of conviction and execution

'Be it remembered, that on the day of in the year of A B, of the county labourer, (or otherwise, as his rank, occupation, or calling may be) is convicted before me, being one of the judges, or justices, &c. in the county of of swearing profane oath or oaths, by the name of (or otherwise as the offence and case may be) and I do adjudge him to forfeit for the same, the sum of and for want of goods and chattels to be by the offender shewn, whereon to levy &c. you are to take his body into custody, and him forthwith convey to one of the supervisors of the highways of the township &c. who is commanded hereby, to receive and keep him at hard labour, on the highway, for the space of two days.—Given under my hand and seal the day and year aforesaid.'

Limitation.

Provided, That every such prosecution be commenced within seventy-two hours after the offence shall be committed.

Cock fighting

Bullet playing

Sec. 6. If any person or persons, shall cause to fight any cock or cocks, for money, or any other valuable thing, or shall promote or encourage any match, or matches of cock fighting, by betting thereon, or shall play at any

match of bullets, in any place, for money, or other valuable thing, or on any highway, or public road, with, or without a bet, or shall play at cards, dice, billiards, bowls, shovel board, or any game at hazard, or address, for money, or other valuable thing, every such person so offending, shall, upon conviction thereof, before any justice or magistrate as aforesaid, forfeit and pay three dollars for every such offence; and if any person or persons, shall run any horse mare or gelding, in any street, or public highway; every person so offending, shall, on conviction thereof before any justice of the peace, or on the view of such justice, forfeit and pay the sum of five dollars, with costs.

**Cards, dice
&c. how pu
nished**

**Runing hor
ses in public
roads**

**How punish-
ed**

Sec. 7. No E Q table, or other device, except as hereinafter excepted, shall be set up or maintained, in any dwelling house, out house, or other place, by any person whatsoever; on pain of forfeiting every such E O table, or other device, and of forfeiting moreover, the sum of fifty dollars; and upon conviction thereof, before any court having competent jurisdiction, held for the county wherein the offence shall be committed: *Provided always*, That nothing in this act contained, shall be construed so as to prohibit private families, from exercising their free will, within their own private houses for their amusement, in a peaceable manner: *Provided also*, That no person shall set up, or suffer to be set up, or kept in his or her house, barn, stable, or other out house, arbor, or bower, or yard, any table or other thing reputed as a gaming table, or

**Keeping E.
Q. and other
tables**

**How punish-
ed**

**Proviso in
favor of pri
vate amuse-
ments.**

other device, for the purpose of encouraging gaming.

**Securities
made or en-
tered into for
gaming void.**

Sec. 8. If any person or persons shall loose any money, or valuable thing, at, or upon any match of cock fighting, bullet playing, or horse racing, or at, or upon any game of address, game of hazard, play, or game whatsoever, the person or persons who shall loose their money, or other valuable thing, shall not be compelled to pay, or make good the same. And any contract, note, bill, bond, judgment, mortgage, or other security or conveyance whatsoever, given, granted, drawn or entered into for the security or satisfaction of the same, or any part thereof, shall be utterly void, and of no effect.

**Money &c.
lost at gam-
ing may be
recovered
back within
30 days**

Sec. 9. If any person or persons shall loose any money, or other thing of value, at, or upon any game of address, or of hazard, or other play, and shall pay, or deliver the same, or any part thereof; the person or persons, so losing and paying, or delivering the same, shall have a right within thirty days, then next thereafter, to sue for, and recover the money or goods, so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt, or case, founded on this act, to be prosecuted in any court of record, or where the value is within the sum cognizable by a single justice, the same may be recovered before any justice of the peace within this territory, subject to an appeal as in other cases.

**Where to be
prosecuted**

**Boxing etc.
what**

Sec. 10. If any perein or persons, shall challenge another to fight or box at fisticuffs, or

with the intent to bring on a match at boxing, shall in words or gesture, endeavour to provoke any other person or persons to commit an affray, whether an affray ensues or not, every person so offending, on conviction thereof, shall forfeit and pay for every such offence, a sum not exceeding five dollars, nor less than one dollar; and every magistrate of the county, where the offence shall have been committed, shall have cognizance thereof; *Provided however*, That such prosecution be commenced within four days from the time the offence was committed.

And how punished.

Limitation.

Sec. 11. If any person within this territory, shall challenge by word, or in writing, the person of another, to fight at sword, rapier, pistol, or other deadly weapon, the person so challenging, shall forfeit and pay for every such offence, being thereof lawfully convicted, in any court of record within the county wherein the offence shall be committed, having competent jurisdiction, by the testimony of one or more witnesses, or by the confession of the party offending a sum not exceeding two hundred and fifty dollars, nor less than fifty dollars; or shall suffer imprisonment for a term not exceeding twelve months, nor less than three months, without bail or mainprize; and the person who shall accept any such challenge, shall in like manner upon conviction, forfeit and pay a sum not exceeding one hundred dollars; or shall suffer such imprisonment, for a term not exceeding six months; nor less than one month; and if any person, shall willingly and knowing-

Duels what.

Prosecutions where to be brought.

Carriers of challenges &c.

ly, carry and deliver any written challenge, or or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be legally convicted thereof, as aforesaid, the person so offending, shall for every such offence, forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars; or shall suffer imprisonment for a term not exceeding six months, or less than one month, as aforesaid.

How punished.

Nature of prosecutions under this act & when commenced.

Sec. 12. All prosecutions under this act shall be by action of debt, or trespass on the case, or by indictment, where the penalty exceeds a magistrate's jurisdiction; and all fines and penalties set or imposed, and paid by virtue of the provisions herein contained, shall be paid into the treasury of the county, in which such fine or penalty shall be set or imposed, for the use of the said county: *Provided always*, That no person shall be prosecuted for any offence against this act, except such offences as are enumerated in the tenth section thereof, unless such prosecution be commenced, within thirty days after the offence has been committed.

In what time to be commenced.

Persons committed to supervisors refusing to labor to be imprisoned.

Sec. 13. If any person or persons who shall be committed to the supervisor of the highways, by virtue of any of the provisions herein contained; shall disobey the orders or directions of the said supervisor; it shall be lawful for the said supervisor, to commit such person or persons to the jail of the county, there to remain until the expiration of the time, for which such person or persons may have been sen-

tenced to labor on the highway; and the said supervisor shall endorse his order of commitment, on the magistrate's warrant, and transmit the same to the jailor, who is hereby directed on the receipt thereof, to receive such person or persons, and commit him or them accordingly.

For the same term for which he was sentenced to labor. Manner of commitment

Sec. 14. If any person or persons shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part, or in the whole, any copy or transcript of, or extract from, any act or law, passed by the legislature of this territory, or by the legislative authority of the United States, or proclamation of the President of the United States, or of the Governor and Commander in Chief of this territory; the same being officially fixed up in some conspicuous place by public authority, for general information; every person so offending, shall on conviction before a magistrate, forfeit and pay to the use of the territory, for every such offence, a sum not exceeding three dollars, besides costs, or be set in the stocks, at the discretion of such magistrate, for a space not exceeding three hours; or in case the offender shall be unable, or refuse to pay such fine (he being fined) then he shall be set in the stocks, for a space not exceeding three hours, and be afterwards discharged on paying costs only.

Tearing down or defacing publication set up by authority.

How punished.

Sec. 15. If, as aforesaid, any person shall wilfully and maliciously deface, obliterate, tear down or destroy, in part, or in the whole, any publication of the banns of matrimony, or advertisement respecting estrays, or any other notification, set up in pursuance of any act or

Tearing down or defacing banns of matrimony.

How punished.

law, now, or which hereafter may be in force within this Territory; such offender shall for every such offense, of which he may be convicted, as aforesaid, be set in the stocks for three hours, and pay costs or stand committed to prison till the same are paid; any thing in this, or any other act or law, to the contrary, notwithstanding.

No lotteries to be carried on.

Sec. 16. No person in order to raise money or other property for himself or another shall publickly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; whoever shall offend herein, shall forfeit to the use of the territory, the whole sum of money, or property proposed to be raised or gained.

under what penalty.**Courts to give this act in charge to juries.**

Sec. 17. The presiding Judge or Justice in the several courts of law, shall at every court, give this act in charge to the Grand Jury, as soon as sworn.

WEIGHTS & MEASURES.

AN ACT

*Regulating weights and measures.**Passed Sept. 17, 1807.*

Sec. 1. The several courts of Common pleas within this territory, be, and they are hereby authorised whenever they may think it necessary, to procure for their respective counties, and at the expence of the same, a set of the following measures and weighs, for the use of their county, that is:—

C. P. to procure weights & measures.

One measure of one foot, or twelve inches, English measure, so called; also one measure of three feet or thirty-six inches, English measure as aforesaid: also one half bushel measure for dry measure, which shall contain one thousand, seventy five and one fifth solid inches; also one gallon measure which shall contain two hundred and thirty-one solid inches, which measures are to be of wood, or any metal, the court may think proper; also one set of weights commonly called Avordupois weight, and seal with the name or initial letters of the county inscribed on it.

**To be kept
by clerk.**

Which weights and measures shall be kept by the clerk of each court, for the purpose of trying and sealing the weights and measures used in their counties.

**When procured
notice to
be given**

**Persons selling
by other
weights and
measures finable**

Clerk. to seal.

**continue in
force till &c.**

Sec. 2. As soon as the court shall have furnished the weights and measures as aforesaid, they shall cause notice thereof to be given at the court house door for one month and any person who will knowingly buy or sell any commodity whatsoever, by measures or weights that shall not correspond with the county weights and measures, shall for every such offence being legally convicted thereof, forfeit and pay the sum of twenty dollars, for the use of the county, where such offence shall have been committed, and also the costs to be recovered before any justice of the peace for said county. Every person desirous of having their weights and measures tried by the county standard, shall apply to the clerk of the county, and if he finds it correspond with the county standard, shall seal them with the seal provided for that purpose. This act shall continue in force, until congress shall pass a law on the subject thereof.

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ERRATTA.

* In page 608 4th line of first section after the word "upwards" read as follows:

"And all able bodied single men, who shall not have taxable property to the amount of two hundred dollars."

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